

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI

MILIMANI LAW COURTS

Succession Cause 444 of 2011

IN THE MATTER OF THE ESTATE OF DAMARIS NDUTA GITAU DECEASED

RACHEL EUNICE NJERI

GITAU.....APPLICANT

-AND-

**EDWIN MUCHENE GITAU.....PETITIONER/
RESPONDENT**

RULING

I have perused the Applicant's summons dated 20.9.2011 and the Replying Affidavit sworn by **the Respondent, Edwin Muchene Gitau**. I have also duly considered the submissions made by Mrs. A. W. Kinuthia, the learned counsel for the Applicant and by Mr. A. M. Khan, the learned counsel for the Respondent.

It is clear from the application and from the submissions made by advocate A. M. Khan and advocate A. W. Kinuthia that the sum of Shs.216,600/= demanded by the Applicant as her share is being withheld because she is using the name of **Rachel Eunice Njeri Gitau** and not Rachael Eunice Njeri Gatabazi. This is the only reason why the share of her entitlement has not been released to her. It is not for the Respondent to dictate what name the Applicant should use. The Applicant has exhibited a copy of her national identity card which shows that her name is Rachel Njeri Gitau.

In these circumstances, the Applicant is entitled to use and sign as her name **Rachel Njeri Gitau** and to receive money in that name.

In the result, I allow the application dated 20.9.2011 and grant orders in terms of prayers 1, 2 and 3.

Dated at Milimani Law Courts, Nairobi, on this 20th day of January 2012.

**G.B.M. KARIUKI, SC
JUDGE**

COUNSEL APPEARING

Mrs. A. W. Kinuthia of A. W Kinuthia & Co. Advocates, for the Applicant

***Mr. A. M. Khan Advocate for the Respondent
Mr. David Mutisya – Court Clerk***