

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MALINDI

CIVIL CASE 38 OF 2010

ELLY ESPOSITO.....PLAINTIFF

VERSUS

1. BERND GRAFF

2.THE DISTRICT LAND REGISTRAR MOMBASA.....DEFENDANTS

RULING

1. Having considered the entire record in this OS and the respective submissions I note that;-

a. A Power of Attorney filed with the plaint purportedly authorized ELLY ESPOSITO and FRANCO ESPOSITO to act on behalf of UTE KUHN with regard to plot NO. 1965 Malindi. However, this suit is filed by only one of the donees, ELLY ESPOSITO.

b. The said Power of Attorney was given on 30/5/06 by UTE KUHN. However, she was only appointed and confirmed as the administrator of the estate of the registered owner of the suit property, the late JOSEPH RUDOLF KUHN on 16th December 2006 (see Certificate of Confirmation of a Grant.)

2. In light of these matters, and bearing in mind the nature of the subject matter at hand, I would decline to grant the orders sought by the applicant ELLY ESPOSITO. The administrator of the estate of JOSEPH RUDOLF KUHN, is directed to appear in person and to make the necessary applications herself, rather than through agents. This I direct in exercise of my discretion under order a rule 1 & 2 Civil Procedure Rule and out of abundant caution.

Delivered in the absence of parties on 31st July, 2012 in the presence of Mr. Otara for the applicant

1st respondent-no appearance

2nd respondent-no appearance, Court clerk – Evans

C. W. Meoli
JUDGE