



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

SUCCESSION CAUSE NO. 94 OF 2005

**IN THE MATTER OF THE ESTATE OF SAMSON
NGAI.....DECEASED.**

SABINA
**KIRIMI.....1STPETITIONER/
RESPONDENT**

VERSUS

FRANCIS GICHUNGE
KIANIRA.....OBJECTOR

LESIIT J.

RULING

The objector in this petition has by a notice of motion dated 8th June 2009 brought under O.L r.1 and S.98 of the Civil Procedure Act sought one order namely:-

“That this court be pleased to authorize and empower the Executive Officer of this honourable court to sign and execute all documents to effect transfer of LR.KIEGOI/KINYAKINE/516 for and on behalf of SABINA KARIMI NTONGAI”

The application is premised on three grounds cited on the face of the application namely.

(i) That the certificate of confirmation is dated 13th March 2008 and all the three beneficiaries are expected to sign all the documents to effect transfer of L.R. NO. KIEGOI KINYANKA/516 for and on behalf of SABINA KARIMI NTONGAI.

(ii) That the person named as second beneficiary SABINA KARIMI NTONGAI in the certificate of confirmation has refused to sign the transfer documents.

(iii) That if this application is allowed the said Sabina Karimi Ntogai will not suffer any prejudice.

The application is also supported by an affidavit sworn by the objector cum applicant of even date. The gist of the affidavit is to the effect that the objector and the 2nd petitioner MARTHA MWOJIA are ready and willing to sign the transfer documents in conformation of the confirmed grant as per the court order of 3rd March 2008. It is stated that the 1st Petitioner has refused to sign the transfer documents.

The application was served upon the Petitioners and so was the hearing notice. The two petitioners were present in court during the hearing of the application but they had filed no replying affidavit whether in support or in opposition to the application.

I have considered the application together with submissions by counsel for the objector/applicant.

A certificate of confirmation of grant was issued by this court and is dated 13th March 2008. The grant distributed the estate of the deceased to the three beneficiaries named in the petition as per the application dated 30th November 2007 and the courts order of 3rd March 2008. There has been no appeal filed to challenge the court order of 3rd March 2008, nor an application made to either annul, revoke or rectify the Grant.

In view of the fact that none of the Petitioners have objected or protested the application, I will grant the application dated 8th June 2009 as follows:-

1. An order be and is hereby issued authorizing and empowering the Deputy Registrar of this court to execute all documents to effect transfer of LR. No. KIEGOI/ KINYANKA/516 for and on behalf of SABINA KARIMA NTONGAI.

2. Costs shall be in the cause.

Dated signed and delivered at Meru this 17th Day of February 2011.

LESIIT J.

JUDGE

