



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI
Succession Cause 506 of 2005

IN THE MATTER OF THE ESTATE OF JOSEPH GATHU NGURE

THOMAS GATURA GATHUPETITIONERS
STEPHEN WANYOIKE GATHU

VERSUS

MARTIN MWANGI GATHU
ALICE WAMUYU.....OBJECTORS

JUDITH WACHUKA MWANGI & 4 OTHERS.....APPLICANTS

INNOCENT ELIAS MUCHIRI GITONGA.....INTERESTED PARTY

JUDGMENT

JOSEPH GATHU NGURE, died on 21st July 2003. He was survived by four sons and one daughter namely Martin Mwangi, Gatura Gathu, Wanyoike Gathu, Gatheru Gathu and Alice Wamuyu respectively. Letters of administration intestate in respect of his Estate were given to Thomas Gatura Gathu and Stephen Wanyoike Gathu. The duo applied for the Confirmation of Grant but the other beneficiaries filed affidavits of protest to oppose the Confirmation of Grant. The protagonists recorded two consent orders settling the distribution of the deceased's Estate save for the parcel of land known as **NYERI MUNICIPALITY/111/35**.

It is the submission of **ALICE WAMUYU GATHU**, hereinafter referred to as the 'Protestor' that the aforesaid parcel of land be shared equally between the children of the deceased. Thomas Gatura Gathu, Stephen Wanyoike Gathu and Peter Gatheru Gathu, hereinafter referred to as the 'Applicants', were of the same view that the land should be shared equally between the deceased's children.

I have carefully considered the proposals made by the parties herein. There is doubt that the Protestor and the Applicants are children of the deceased. They have agreed to share equally the only remaining Estate asset. I have no reason to deny them the order. Pursuant to Section 38 of the Law of Succession Act, I direct that the parcel of land known as **NYERI MUNICIPALITY/BLOCK III/35** be shared equally between the children of the deceased namely:

- (i) **THOMAS GATURA GATHU.**
- (ii) **STEPHEN WANYOIKE GATHU.**
- (iii) **PETER GATHERU GATHU.**
- (iv) **ALICE WAMUYU GATHU.**
- (v) **MARTIN MWANGI GATHU.**

Since the dispute involves siblings, I direct that each party meets his or her own costs.

Dated and delivered at Nyeri this 28th day of May 2010.

J. K. SERGON

JUDGE

In open court in the presence of G. Mwangi holding brief Mwai for 1st Objector no appearance for Petitioner and Muriuki for two Objectors.