



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 3252 of 1978**

**MARY WANJIRU NJUGUNA .....PLAINTIFF/RESPONDENT**

**V E R S U S**

**KIBUI GACHOKA.....1<sup>ST</sup> DEFENDANT/RESPONDENT  
KABURA GACHOKA .....2<sup>ND</sup> DEFENDANT/RESPONDENT  
MBURU GACHOKA .....3<sup>RD</sup> DEFENDANT/RESPONDENT  
KABUU GACHOKA .....4<sup>TH</sup> DEFENDANT/RESPONDENT  
MUNGAI GACHOKA .....5<sup>TH</sup> DEFENDANT/RESPONDENT**

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**R U L I N G**

This dispute was on 28<sup>th</sup> July, 1980 by consent referred to arbitration by Justice Sachdeva. Arbitration was conducted and the award filed in court. The same was adopted as judgment on 27<sup>th</sup> May, 1981 by Justice Masime. In the decree that issued on 24<sup>th</sup> August, 1981 the Plaintiff was entitled to 2.20 acres of land parcel No. Kiganjo/Kiganjo/65 as measured on 5<sup>th</sup> December, 1980 by the Surveyor together with all members of the panel. The Surveyor and the arbitrators fixed the boundary line with permanent plants called "MUKUNGUGU" to identify the boundary. The parcel of land was in the name of the deceased Gachoka Kinuthia. The Defendants are members of his family.

By motion under **section 3A** of the **Civil Procedure Rules**, the Plaintiff is alleging that the Land Registrar, Thika, is unable to effect the order because she does not know to whom, after the excision of the 2.20 acres, the rest of the land shall go. This is because the Defendants have not taken out letters of administration in regard to the estate of the deceased. The Plaintiff requests that the remainder of the land be registered in the name of the Deputy Registrar to hold in trust for the beneficiaries of the estate. The application was served but did not elicit any response.

The judgment and decree of the court were not appealed against. The decree has to be executed as courts do not give orders in vain. I will allow the application and direct that the Plaintiff shall be registered as proprietor of 2.20 acres of land parcel NO. Kiganjo/Kiganjo/65 as provided in the decree and the remainder shall be registered in the name of the Deputy Registrar High Court to hold in trust for the estate of the late Gachoka Kinuthia.

**DATED AND DELIVERED AT NAIROBI  
THIS 18<sup>TH</sup> DAY OF OCTOBER 2010**

**A. O. MUCHELULE  
J U D G E**