



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT NYERI**

**Succession Cause 112 of 1989**

**ESTATE OF GAICHUHIA MUHINGO - DECEASED**

**ANNAH WAMUYU MUHINGO .....APPLICANT**

**VERSUS**

**JOSEPH MURIUKI MUHINGO.....RESPONDENT**

**RULING**

Pursuant to the Provisions of Section 71 (1) and (3) of the Law of Succession the grant of Letter of Administration Intestate of the Estate of Gaichuhia Muhingo, deceased issued to Annah Wamuyu Muhingo and Joseph Muriuki Muhingo (hereinafter referred to as the Applicant & Respondent respectively) was confirmed on 22<sup>nd</sup> April 2009. The certificate of confirmation indicated that L.R. No. Konyu/Baricho/91 would be shared equally.

Annah Wamuyu Muhingo is now before this court seeking for the following orders in the summons dated 7<sup>th</sup> May 2009:

- 1. That the Honourable Court be pleased to order and/or authorize its Deputy Registrar/officer to sign all the necessary documents of sub-divisions and transfer of land parcel No. KONYU/BARICHO/91 instead of the Respondent herein JOSEPH MURIUKI MUHINGO.***
- 2. That the production of the original title Deed in respect of Land Parcel No. KONYU/BARICHO/91 be dispensed with at the time of transfer herein.***

The Summons is supported by the affidavit sworn on 7<sup>th</sup> May 2009. Joseph Muriuki Muhingo opposed the application by filing a replying affidavit he swore on 2<sup>nd</sup> September 2009.

It is the submission of the applicant that the Respondent has refused to have the terms of the certificate of confirmation of grant executed. The Respondent on his part denied having been to this court. He alleged that the Applicant has not served him with any documents save for the current application. The Respondent claimed that the Applicant was only entitled to only 0.53 hectares and not half of L.R. No. Konyu/Baricho/91. He denied having refused to sign the necessary documents.

I have carefully considered the grounds set out on the face of the summons plus the facts deponed in the affidavits for and against the application. It is obvious that the Respondent has refused to sign the necessary documents to have half of L.R. Konyu/Baricho/91 transferred to the Applicant. He has annexed to his replying affidavit documents showing that the Respondent is only entitled to L.R. Konyu/Baricho/91 yet the certificate of confirmation of grant indicates that the applicant and the Respondent should share equally the aforesaid parcel of land. The Respondent has not applied for the grant to be revoked and or altered.

I am convinced the applicant was entitled to bring up these proceedings. In exercise of this court's inherent power under Rule 73 of the Probate and Administration Rules I hereby grant the applicant the orders sought in the summons dated 7<sup>th</sup> May 2009. Costs of the application to be met by the estate.

Dated and delivered this 13<sup>th</sup> day of October 2009.

J.K. SERGON

JUDGE

In open court in the presence of the applicant and the Respondent.

J.K. SERGON

JUDGE