



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

**Probate & Administration 35 of 2007**

**KOSOPO ARAP  
MINING.....  
.....:DECEASED**

**AND**

**1. TECLA CHERUTO  
2. PETER  
KIPCHUMBA.....  
.....:PETITION  
ERS**

**R U L I N G**

By summons for confirmation of grant dated 25<sup>th</sup> day of June 2008, the applicant prays for orders:

1. That the grant of probate of letters of administration intestate or with will annexed made to the said Tecla Cheruto be confirmed.
2. The costs of the application be in the cause.

The application is predicated upon the annexed affidavit of Tecla Cheruto sworn on the 26<sup>th</sup> day of June 2008.

The thrust of the applicant’s case is that property which is legally due for distribution is Plot No.71 Livyo Scheme. The applicant prayed that the first petitioner be granted 2 ½ acres and the 2<sup>nd</sup> petitioner equally be granted 2 ½ to hold the same in trust for the second house.

The respondent neither filed grounds of opposition nor replying affidavit. That notwithstanding the court gave the respondent’s counsel leave to argue the application on points of law. The respondent’s advocate squandered the opportunity there being no evidence in rebuttal, I now make the following orders:

1. I grant the first petitioner 2 ½ acres out of Plot NO. 71 Livyo Scheme to hold the same in trust for the first house.
2. I grant the second petitioner 2 ½ acres out of Plot No. 71 Livyo Scheme to hold the same in trust for the second house.
3. There shall be no orders as to costs.

Dated and delivered at Kitale this 12<sup>TH</sup> day of NOVEMBER 2009.

**NRO OMBIJA**

**JUDGE**

**Mr Njoroge for Kaosa for Applicant**