



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

Succession Cause 2257 of 1999

IN THE MATTER OF THE ESTATE OF MBUTHIA NG'ANG'A

WILFRED KARANJA MBUTHIAAPPLCANT

V E R S U S

SERAH NJOKI MBUTHIA..... RESPONDENT

R U L I N G

Before me is a Summons dated 29th May, 2009 filed by M/S Punja & Kagongona advocates for the applicant named as **WILFRED KARANJA MBUTHIA**. The respondent is named as **SERAH NJOKI MBUTHIA**.

The application is said to be brought under section 45 of the Law of Succession Act (**Cap. 160**) and Rules 73 and 49 of the Probate and Administration Rules. The orders sought are as follows-

- 1. THAT the Respondent, the administrator of the estate of MBUTHIA NDUNG'U be ordered to sign the necessary transmission documents in favour of the Applicant as a beneficiary of the estate of the deceased in respect of ½ portion of land Reference Number Karai/Gikambura/405 and ½ portion of land Reference Number Loitoktok/Ngama/623 and in default the Deputy Registrar of this Honourable Court be ordered to execute the same on her behalf.**
- 2. THAT the costs of this application be provided for.**

There are grounds on the face of the Summons. The application was also filed with a supporting affidavit sworn by the applicant on 29th May, 2009. It was deposed in the affidavit, inter alia, that the applicant was a child of the deceased **MBUTHIA NG'ANG'A** and a beneficiary of the estate. That though letters of administration and certificate of confirmation were issued, the respondent had refused to sign necessary transmission papers to enable the applicant process his own title deeds in respect of the two properties.

The application is not opposed, though it appears to have been served and an affidavit of service was filed.

I have considered the application, documents filed and the submissions of the applicant. I have perused the certificate of confirmation of grant dated 3rd December, 2001. The applicant in that certificate of confirmed grant was ordered to get ½ portion of **KARAI/GIKAMBURA/405** and ½ share in **LOITOKTOK/NGAMA/ 623**. Clearly, the applicant is entitled to the plots he wants to get title to in this present application. The application is not opposed and I have no option but to allow the same.

Consequently, I allow the application and order as follows-

- 1. Prayers 1 is granted, and after the lapse of 14 days from today, if the respondent/administrator does not sign the documents, the Deputy Registrar will sign the same.***
- 2. The respondent will pay the applicant's costs of the application.***

Dated and delivered at Nairobi this 11th day of November, 2009.

George Dulu

Judge.