



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT EMBU

Succession Cause 20 of 2003

IN THE MATTER OF THE ESTATE OF MARINGA KIONDO - DECEASED

PILISILA WANJIRA MARINGA.....APPLICANT

Versus

FLORA WAITHIRA NJERU.....1ST RESPONDENT

NDERI JOSEPH KARWERIA.....2ND RESPONDENT

AGNES NTHAMBI KARWERIA.....3RD RESPONDENT

MUNICIPAL COUNCIL OF EMBU.....4TH RESPONDENT

RULING

Pilisila Wanjira Maringa filed this application under several provisions of law- Section 45 and 48 of cap 160 and P&A rule 49 and 73. The dispute is concerning plot No. 1112/717 within Embu Municipality. The application states that the plot was purchased by her deceased husband from its registered owner Mr.Simon Njogu Mungari but the deceased died on 27/4/2002 before the council lease was registered in his name. After his death advocate tried to get the land registered in the name of stepson of Applicant. This transaction was not known to applicant and other beneficiaries. When the applicant applied for a grant the step son the said Patrick Anderson Njeru Maringa objected to her obtaining grant. Patrick has died but his wife Florah Waithera Njue wanted to sell the plot to the other Respondent for Shs.900,000/=.

It is then that the applicant objected. Now there is constructions going on, on that plot and there is collection of rents from some houses on the plot. The replying affidavit shows that the said plot was of the deceased husband of Applicant. She says the father gave the plot to her husband Patrick Anderson Njeru now deceased. That is a matter of proof. She does not explain the sale of plot as stated in the supporting affidavit.

Upon consideration, I find that there is evidence that the plot was of the deceased by purchase. The issue of changing the title was a formality which did not happen because he died. There is no proof that the deceased who had two wives would give the plot to this son absolutely. There were other beneficiaries.

I therefore find that the plot was part of the estate of the deceased and should be protected for the benefits of all beneficiaries. I grant order under prayer 2 in the application pending determination of

these proceedings. Costs to the applicant.

Concerning prayer 3, 4 and 5, I order that oral evidence be given by all parties concerned. The applicant shall serve this order on the Respondents forthwith. Hearing shall be on priority basis.

It is so ordered. Costs in the cause.

Dated this 15th February, 2008.

J. N. KHAMINWA

JUDGE

15/2/2008

Khaminwa – Judge

Njue – Clerk

Applicant – present

N/A for Respondent

Read in open court.

J. N. KHAMINWA

JUDGE