



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

**AT NYERI**

**Succession Cause 28 of 1996**

**GATUIKU GITHUKU ..... APPLICANT**

**VERSUS**

**JOHNSON WAWERU GATUIKU ..... RESPONDENT**

**RULING**

Summons dated 15<sup>th</sup> January 2008 seeks that property Kirimukuyu/Ngandu/144 be divided according to the occupation on the ground by the beneficiaries. It was argued that the beneficiaries have remained in the same occupation on that property since 1977. The grant in this matter was confirmed on 10<sup>th</sup> June 1999. By that confirmed grant the beneficiaries were to get equal shares of that property. The applicant argued that the respondent that is Muriuki Gatuiku had refused and frustrated attempts to sub-divide according to each person's occupation of that property. In response the respondent accepted that each of them has been living on that land in a particular manner and that they had lived there from the date of the deceased's death. He however prayed that each would get access to the road.

I have considered the application and the submissions made before me. I am of the view that the order that commends itself is that each of the beneficiaries do get the area that they are already occupying. Accordingly the orders of this court are that the District Surveyor Nyeri do sub-divide Kirimukuyu/Ngandu/144 according to the terms of the confirmed grant dated 10<sup>th</sup> June 1999 with each beneficiary getting the area they presently occupy and have developed but ensuring that each has access to the road. Each party is granted liberty to further apply to court in respect of such sub-division. There shall be no orders for costs in respect of the summons dated 15<sup>th</sup> January 2008.

***Dated and delivered at Nyeri this 19<sup>th</sup> day of March 2008.***

**MARY KASANGO**

**JUDGE**