

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT EMBU

Misc. Appli. 110 of 2007

IN THE MATTER OF ESTATE OF NAHASHON NJERU NJAGI.....DSD

AND

JAMLECK NJERU NJAGI.....APPLICANT

RULING

The application dated 17/10/2007 is filed by the administrator of the estate of Nahashon Njeru Kimotho who died on 26/10/1981. Grant was issued on 13/3/1990 to the present applicant. The applicant's affidavit in support of Application seeks to change and alter the distribution of deceased estate so that his mother to give him her one acre of land distributed to her and John Njagi Njeru to give him his 2.4. acres. The share allocated to Johnson Gachoki Njeru of 2.0 acres to be given to his son Wilberforce. Kariuki Gachoki none of these persons have made any statement on oath or otherwise that they agree to the proposed changes. Cecilia and Johnson appeared in court and made no submissions.

I have examined the reasons for the changes, it is not clear why the Administrator should take over his mother's land. Where will the mother reside during the rest of her lifetime? Is she to be left homeless? Why does the brother Johnson wish to give his land to his brother?. Has he not any wife or children? This application is not brought to rectify the Certificate but to change ownership as already ordered by the court. According to law the widow Cecilia is guaranteed life interest in her husband's estate. It is unlawful to take away her interest while she is still alive. What is the gift to be given to brother it should be disclosed. I find no reason to grant orders prayed for.

I dismiss this application with no order as to costs.

The matter is coming for Ruling today. Ruling is read in absence of Applicant. However there is Notice received on 23/4/2008 withdrawing this case i.e Misc. Civil Application No. 110/2007.

Order at the request of Jamleck N. Njagi: -

This Misc. Suit is marked withdrawn with no order as to costs.

Dated this 25th April, 2008.

J. N. KHAMINWA

JUDGE

25/4/2008

Khaminwa – Judge

Njue- Clerk

Applicant – absent

J. N. KHAMINWA

JUDGE