

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NYERI

Succession Cause 429 of 2004

IN THE MATTER OF THE ESTATE OF JOSEPH NGONJI KAMUNDIA .. (DECEASED)

FRANKLIN MUTURI KIHARA APPLICANT

RULING

The Chamber Summons dated 18th January 2007 seeks for leave to be granted for the Executive Officer of this court to sign documents to enable subdivision to be undertaken on property **AGUTHI/GAKU/628**. The Applicant argued that after the grant was confirmed the Respondent his co-beneficiary failed to cooperate by refusing to sign the necessary documents for subdivision to be undertaken. The Respondent opposed the application on the basis that there were other beneficiaries who needed to be included in the distribution of that property. In that regard the Respondent gave to the court a letter written by the Chief confirming the same and dated 27th September 2004.

As at this moment there is no application to revoke the grant. The persons named in that Chief's letter have not moved the court in any manner. They are therefore not within this cause. It is not clear to the court why a letter that was written by the Chief in September 2004 had not been brought to the attention of the court until now. When the matter came up for confirmation of grant on 28th March 2007 both the Applicant and the Respondent as the only beneficiaries of this estate were before court. The court indicated that they both were in agreement in the mode of distribution. The grant was therefore confirmed to the effect that the property be shared amongst the two. Therefore there being no basis for refusing the prayer sought I do allow the application in the following terms:

- 1. This court does hereby authorize the deputy registrar of this court to sign all the relevant documents to enable the subdivision and transfer of land parcel No. AGUTHI/ GAKU/628 to both the beneficiaries in terms of the confirmed grant dated 28th March 2007.*
- 2. There shall be no orders as to costs in respect of chamber summons dated 18th January 2008.*

DATED AND DELIVERED THIS 8TH DAY OF APRIL 2008.

MARY KASANGO

JUDGE