



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

Succession 1373 of 2002

IN THE MATTER OF THE ESTATE OF AMOS GITAU GIKUBIA (DECEASED)

AND

JERUSHA NGURU GITAU.....1ST PETITIONER

MICHAEL NYAGA AMOS.....2ND PETITIONER

VERSUS

PATRICK MBURU NYAGA AMOS GITAU.....OBJECTOR

JUDGMENT

Application dated 14/11/2005 seeks orders for confirmation of grant issued by court on 16/5/2005. The affidavit in support of the application gives identifications of the beneficiaries. It is disclosed that the deceased had 2 wives one of who has died. There is disagreement in the proposals for distribution. Patrick Mburu Nyaga and some of beneficiaries file a protest alleging that one of the application for confirmation got lost and therefore he wishes both proposals to be considered. He exhibited some two green cards which show that that father deceased was registered as proprietor on 10.3.96 and on 16/5/1974 it is recorded the father died. The land to be distributed is identified as:-

1. Ngandori/Kirigi/887
2. Ngandori/Kirigi/2313

These are the assets. The protestor proposes that each survivor to be given their shares separately so that all have equal shares. This being a polygamous home section 40 succession Act applies the assets should be shared by each house in accordance according to the number of children adding mother as an additional unit.

I therefore find the proposed distribution by the administrator fair and in accordance with the law. The grant is hereby confirmed and I order the certificate to issue as proposed by administrators.

No order as to costs.

Dated this 7th April, 2008.

J. N. KHAMINWA

JUDGE

7/4/2008

Khaminwa – Judge

Njue – Clerk

Mr. J. Kathungu present

All interested parties present

Read in open court.

J. N. KHAMINWA

JUDGE