

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI

Civil Case 18 of 2008 (OS)

BEATRICE NGIMA MWAI PLAINTIFF

VERSUS

1. GICHINE MWAI

2. THE LAND REGISTRAR, KIRINYAGA LAND REGISTRAR..... DEFENDANT

JUDGMENT

The plaintiff Beatrice Ngima Mwai filed this action seeking an order to compel the land registrar Kirinyaga land registry to register the transmission made in her favour as administrator of the estate of the late Nahashon Gichine Mwai deceased over Land Title No. Kiine/Kiangai/33. The originating summons was served on the respondent and at the date of hearing of this action the respondents had not filed any documents in opposition. The first respondent was present and requested that he be allowed to instruct an advocate to represent him. That was the only response he made to the action. The action was therefore unopposed. The plaintiff stated that her late husband died on 17th August 2004. A grant was issued to her in respect of that estate and was later confirmed in the terms that she was to be registered as the sole administrator of the estate and the properties thereof she was to hold in trust for the benefit of the children. She attempted to register the transmission as an administrator over the properties of the deceased and she was successful in all of them except the property in this matter. No reason was given to her for failure to register that transmission. Later she found that registration was rejected because there was a caution put by the first respondent claiming to have the right as a licensee. Subsequent to that the plaintiff made many visit to the land registry but was unsuccessful in having the registration. She therefore prayed that the court will grant the prayers that are sought.

I have considered the plaintiff's action and as stated it is unopposed. The plaintiff from the documents annexed to the action clearly shows that she is the administrator of the property in this action. She is to be registered as a trustee for the children of the deceased. There is no reason why this court should not grant the prayers that are sought by the plaintiff. The judgment of this court is as follows:-

1. That an order be and hereby issued Compelling the land registrar, Kirinyaga land registry to register the transmission made in favour of Beatrice Ngima Mwai as the administrator of the estate of Nahashon Gichine Mwai deceased over land Title No. Kiine/Kiangai/33.

2. The plaintiff is awarded costs of this suit as against the two respondents.

Dated and delivered at Nyeri this 22nd day of October 2008.

MARY KASANGO

JUDGE