



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI
Succession Cause 700 of 2001
IN THE MATTER OF THE ESTATE OF NDIRANGU KIRINGA DECEASED
WILSON KARIBE NDIRANGU & 2 OTHERS PETITIONERS
Versus
STEPHEN KIRINGA NDIRANGU
CHARLES KARIUKI NDIRANGU OBJECTORS

JUDGMENT

This judgment relates to affidavit of protest filed by Stephen Kiringa Ndirangu. Summons for confirmation of grant were applied for by the petitioner in an application dated 12th March 2007. In that application it was proposed that property LR NO. KIRIMUKUYU/GACHUIRO/294 be divided equally amongst;

- a) Stephen Kiringa Ndirangu,
- b) Eustace Mwangi,
- c) Charles Kariuki,
- d) Caesar Mwangi Ndirangu.

There was no provision made for Wilson Karibe Ndirangu. In respect of plot No. 19 Ngunjiri Market, the same was to be divided equally between;

- 1. Stephen Kiringa Ndirangu,
- 2. Eustace Mwangi,
- 3. Charles Kariuki and
- 4. Wilson Karibe Ndirangu

In the affidavit in protest Stephen Kiringa proposed that Parcel No. Kirimukuyu/Gachuiro/ 249 which is 4.8 acres be divided as follows:

1. Stephen Kiringa Ndirangu - 1.7 acres
2. Eustace Mwangi - 1.04 acres
3. Charles Kariuki - 1.03 acres
4. Wilson Karibe Ndirangu – 1.03 acres

In respect of Plot No. 19 Ngunjiri Market he was in agreement with the proposal of the petitioner. The reason why he excluded the name of Caesar Mwangi in respect of the first property was because Caesar was said to be a purchaser and was therefore not entitled to inherit the land. He justified his larger portion of the first property by saying that at the time of demarcation their father who is the deceased in this succession was already dead. The other beneficiaries were very young. He however did not take advantage of their youth but processed the consolidation of their father's property and had the property registered in their father's name even though their father was by then deceased. He paid for the consolidation fees and annexed evidence of those receipts. Further he stated that since he was older than his brothers he sacrificially educated them and brought them up. He had one witness who confirmed that and swore an affidavit to that effect. The parties by a consent order of 15th October 2008 agreed for this matter to be heard by way of written submissions and further affidavit. By the time I sat to consider this judgment the respondent had not filed any papers in opposition to affidavit of protest. Accordingly I will take the affidavit of protest as being unopposed and as relaying the correct information. Accordingly the protestor does succeed in his case and the grant is hereby confirmed as follows:-

1. PARCEL NO. KIRIMUKUYU/GACHUIRO/294

- a) Stephen Kiringa Ndirangu - 1.7 acres
- b) Eustace Mwangi - 1.04 acres
- c) Charles Kariuki - 1.03 acres
- d) Wilson Karibe Ndirangu – 1.03 acres

2. PLOT NO. 19 NGUNJIRI MARKET to be shared equally amongst the following:-

- a) Eustace Mwangi
- b) Charles Kariuki
- c) Wilson Karibe Ndirangu

3. There shall be no orders as to costs.

Dated and delivered this 15th day of December 2008

MARY KASANGO

JUDGE