



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

**AT EMBU**

**Succession Cause 348 of 2005**

**IN MATTER OF THE ESTATE OF NDWIGA NYAGA.....DSD**

**AND**

**GRACE WANYAGA.....1<sup>ST</sup> PETITIONER**

**FAITH MUTHONI NDWIGA.....2<sup>ND</sup> PETITIONER**

**RULING**

The application for confirmation of grant filed by Faith Muthoni Ndwiga and Grace Wanyaga is opposed by Simon Kinyua Ndwiga who has filed an affidavit in protest against confirmation of grant stating his objections and making proposals of how the estate should be distributed. Evidence shows that there are two widows of deceased both petitioners namely:-

1. Faith Muthoni
2. Grace Wanyaga

Faith said that the deceased in his life time gave his brother, Njagi Rurima a piece of land. This was confirmed by the co-wife Grace. Distribution of assets in a home with more than one wife is governed by provisions of Section 40 of the Act. Assets are divided between the two houses according to the number of children in that house and thereafter the distribution in each house is as set out in Section 35 of the Act.

The widows have life interest in the assets after their interest terminates the assets in that house shall be inherited by the children equally. Therefore as it is agreed by administrators to give to the deceased's brother ½ an acre as their husband said that gift shall to go him. Njagi Rurima. The administrators have agreed to exercise their powers of appointment and to give the children of deceased shares of inheritance. This is in order and in accordance with the law. The administrators have allocated to themselves what they require.

I find the distribution being fair and the protest does not have any merit, I dismiss the same. The application for confirmation of grant is allowed. The grant is confirmed, the distribution is as proposed by the administrators confirmed.

I order certificate to issue.

It is so ordered. No order as to costs.

Dated this 27<sup>th</sup> November, 2007.

**J. N. KHAMINWA**

**JUDGE**

**27/11/2007**

**Khaminwa – Judge**

**Njue – Clerk**

Read in presence of parties in open court.

**J. N. KHAMINWA**

**JUDGE**