

REPUBLIC OF KENYA

IN THE HIGH COURT AT NYERI

SUCCESSION CAUSE 94 OF 1996

IN THE MATTER OF THE ESTATE OF SOLOMON MUCHIRI MACHARIA (DECEASED)

JANE WANJIRU MUCHIRI.....PETITIONER

Versus

PHOEBE WATETU.....OBJECTOR

JUDGMENT

The Petitioner and the objector are co-wives of the deceased. The Petitioner in her petition indicated that the only property of the estate was land parcel No. **61 ENDARASHA SCHEME**. The objector raised an objection to confirmation of grant as proposed by the Petitioner on the basis that the estate had another property in Gatarakwa which at the time of the death of their deceased husband had not been registered. After his death the widows agreed on the division of that land. The objector stated that it was agreed that she would get 16 acres whilst the Petitioner would get 20 acres. When however the title came out the objector noted that she had been given 12 acres. She was of the view that the Petitioner was wrong to have taken the other acres she was entitled to and therefore was of the view that the confirmation being sought over the property **ENDARASHA SCHEME No. 61** should be to the effect that 7.15 acres would go to the objector and 3.15 for the Petitioner. This the objector said would compensate her for the short fall she got in the Gatarakwa property. In her evidence the Petitioner did not deny that the objector was given less acreage as she had stated.

It should be noted that the objector's evidence was corroborated by her son. The court is therefore of the view that the objector has on a balance of probability proved her case. Accordingly the Petitioner shall obtain the acreage that is 3.15.

In the final analysis the judgment of the court is that the property **ENDARASHA SCHEME NO. 61** shall be distributed in the following manner:

PHOEBE WATETU MUCHIRI – 7.15 ACRES

JANE WANJIRU MUCHIRI – 3.15 ACRES

There shall be no orders as to costs.

MARY KASANGO

JUDGE

Dated and delivered at Nyeri this 15th day of November 2007.

By: M. S. A. MAKHANDIA

JUDGE

