

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
Succession Cause 2201 of 2001

IN THE MATTER OF THE ESTATE OF SAMUEL GITHAGUI KINYANJUI

RULING

I have considered the Summons brought by the petitioner under Section 37 of the Law of Succession and Rules 49 and 73 of the P & A rules.

The applicant has sought for leave of the court to sell LR No. Dagoretti/Kinoo/T.198 to be able to pay school fees for the three children. She has further sought for leave so that the sale proceeds may be deposited in a bank account to be operated between the widow and the two grown up children.

According to the supporting affidavit, the child known as Morgan Kinyanjui has been admitted to the University of Nairobi for a degree course which was supposed to have commenced in February 2005 whereby he has been unable to pay Kshs.198,750/= and therefore deferred the course.

Rosaline Nyambura is also desirous of joining a college to undertake a course and the last born child who is still a minor is in preparatory school whereby the school fees per term is Kshs.18,500/=.

The applicant has another parcel of land being LR No. Dagoretti/Waithaka/1085 whereby they reside with the children.

According to the provisions of the Section 37 a surviving spouse who is entitled to a life interest with the consent of the co-trustees and all the children of full age and with the content of the court, can sell the interest held for life.

In this case the two children who are of age have duly filed their consent to the proposed sale. I am satisfied that the applicant should be granted leave to dispose of the property held in trust for reasons given in the application.

Accordingly the application dated 26th April 2005 in terms of prayers 2 and 3 is granted.

Orders accordingly.

MARTHA KOOME

JUDGE