

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

Succession Cause 441 of 1984

IN THE MATTER OF THE ESTATE OF WAKAPA PERE (DECEASED)

JOHN WAKAPA PERE.....APPLICANT

Versus

RICHARD NJENGA WAKAPA.....RESPONDENT

RULING

John Wakapa Pere, the Applicant herein sought for orders as follows:

- 1) That the interlocutory order made herein on the 9th Augusts 1994 and registered against land Reference Ngong/Ngong/4991 be raised.
- 2) Costs of the application provided for.

This application is premised on the grounds stipulated in the body of the application which are further expounded in the Supporting Affidavit of the Applicant to wit:

1. That an interim order to maintain the status quo in respect of the suit known as Ngong/Ngong/4991 was issued in August 1994 pending the determination of this matter.
2. This matter was finally heard and an order of distribution of the estate was issued by Hon. Rawal, J. on 25th June 2002.
3. The Applicant is desirous of subdividing the land and distributing the shares to the respective Beneficiaries but the order noted in the Register of title has not been lifted.

Thus he sought for the orders as prayed. The Respondent who was represented by Mr. Nganga did not file any Replying Affidavit to this application which technically stands unopposed.

The Ruling by Hon. Justice Rawal of 25th June 2002 has not been challenged in any way. Thus the estate of the deceased should be distributed accordingly. The order to maintain the status quo was overtaken by the said Ruling that fully and finally determined the distribution of the deceased estate.

In this regard therefore the order of status quo issued on 9th August 1994 is hereby raised in regard to Title No. Ngong/Ngong/4991. Costs of this application to the Applicant.

Ruling read and signed on 2/12/05

MARTHA KOOME

JUDGE