



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KERICHO**

**SUCCESSION NO. 236 OF 2015**

**IN THE MATTER OF THE ESTATE OF THE BARCHOK ARAP KOSKEI alias BARCHOK A. KOSKE Alias BARCHOK ARAP KOSGEI (DECEASED)**

**LUDIA CHEPKIRUI KOSKE.....1<sup>ST</sup> PETITIONER/APPLICANT**

**ANNA CHERONO.....2<sup>ND</sup> PETITIONER/APPLICANT**

**VERSUS**

**JOHNSTONE KIPCHIRCHI ARAP SIGEI.....3<sup>RD</sup> PETITIONER/RESPONDENT**

**R U L I N G**

1. The Application coming for consideration in this ruling is the one dated 19/4/2017 seeking the following orders:-

**(i) THAT this Court be pleased to order the Deputy Registrar of this Court to sign the mutation forms and transfer forms in respect of KERICHO/CHESINENDE/250 on behalf of the 3<sup>rd</sup> Petitioner/Respondent.**

**(ii) THAT the costs of the Application be provide for.**

2. The Application is based on the grounds on the face of it and supported by the Affidavit of LUDIA CHEPKIRUI KOSKE in which she had deposed that she is the 2<sup>nd</sup> wife of the deceased herein and the 2<sup>nd</sup> Petitioner/Applicant is the daughter-in-law.

3. The Applicant has further stated that the grant of letters was issued on 17/9/2015 and confirmed on 12/10/2016 but the 3<sup>rd</sup> Petitioner/Respondent has refused to sign mutation and transfer documents for Land Reference **No.KERICHO/CHESINENDE/250** (hereafter referred to as the suit property) hence this Application.

4. The 3<sup>rd</sup> Petitioner/Respondent **JOHNSTONE KIPCHIRCHIR ARAP SIGEI** filed a Replying Affidavit sworn on 15/5/2017 in response to the Application dated 19/4/2017 in which he states that the Petitioners have sold part of the Estate and further that the Petitioners have not included commercial plots meant for dependents and purchasers who bought some properties from the deceased.

5. The parties filed written submissions which I have considered. The Applicant has submitted that the 3<sup>rd</sup> Petitioner/Respondent is out to frustrate the process of distribution of the suit property out of malice and selfishness.

6. The 3<sup>rd</sup> Petitioner/Respondent also filed submission in which he has stated that the Co-Administrators had reneged from the position they had agreed on and now they want to compel him to sign mutation and transfer forms yet the dependants of the Estate and purchasers stand to suffer unless the grant is rectified.

7. I have considered the submissions by both parties. I find that the grant of letters of Administration was issued on 17/9/2015 and confirmed on 12/10/2016.

8. The 3<sup>rd</sup> Petitioner/Respondent has not filed any summons for rectification to bring on board the alleged properties he is claiming were left out by his Co-Administrators.

9. The law requires that the properties be distributed within 6 months after the confirmation of grant.

10. In *RE ESTATE OF GITERE KAHURA (DECEASED) [2020] eKLR* the court stated that the primary mandate of the probate court is distribution of the estate and once an order is made distributing the estate, the Administrators must comply or the Court would be compelled to remove them as Administrators. The court further stated that administrators have a duty to the beneficiaries to ensure distribution within the stipulated time.

11. I find that the 3<sup>rd</sup> Petitioner/Respondent has no basis for refusing to sign the mutation and transfer documents since the certificate of confirmation issued on 12/10/2016 still stands.

12. I direct that the 3<sup>rd</sup> Petitioner/Respondent files and serves a certificate for rectification of grant within 30 days of this ruling and gives details of properties which were left out by his Co-Administrators for determination by the Court.

13. Failure to disclose the said properties, the Registrar of this court to sign the mutation, transfer documents within 15 days upon lapse of the 30 days granted to the 3<sup>rd</sup> Petitioner/Respondent.

14. This being a family matter, each party to bear its own costs of the Application dated 19/4/2017.

**DELIVERED, SIGNED AND DATED AT KERICHO THIS 11TH DAY OF JUNE, 2021.**

**A. N. ONGERI**

**JUDGE**