

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

SUCCESSION CAUSE NO. 784 OF 1990

IN THE MATTER OF THE ESTATE OF MWAURA GITACHU(DECEASED)

SAMUEL KARURU MWAURA.....APPLICANT

VERSUS

DR. JOSHUA GITACHU MWAURA.....1ST EXECUTOR/RESPONDENT

HENRY GITACHU MWAURA.....2ND EXECUTOR/RESPONDENT

DIRECTIONS

1. I have looked at the application dated 12th February 2021 by the applicant Samuel Karuru Mwaura (who is one of the sons of the deceased by the second house). He complains that LR No. Loc 1/Mugumoini/338 was subdivided by M/s Spartial Design Solutions Surveyors but not in accordance with the plan by Hezekiah Njuguna which was consented to by the parties, and which consent was adopted by the court on 15th December 2020. The respondents Dr. Joshua Gitachu Mwaura (1st respondent) and Henry Gitachu Mwaura (2nd respondent) admit that there was a variation during the subdivision by the surveyors, and that the variation was necessary.

2. Before I determine the application, I ask that the same be served on M/s Spartial Designs Solutions Surveyors who shall within 14 days swear and filed an affidavit to explain why it became necessary not to comply with the order that was the subject of the consent.

3. The affidavit shall be served on the applicant who shall have 14 days to file a further affidavit.

4. Consequently, the hearing of this application is adjourned to **29th September 2021.**

DATED and DELIVERED at NAIROBI this 19TH JULY 2021.

A.O. MUCHELULE

JUDGE