



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL APPEAL NO. 16 OF 2007

MARY NJOKI KAMAU.....APPLICANT

VERSUS

JANE WANJIRU KIARIE.....RESPONDENT

RULING

1. By a certificate of confirmation of grant issued on 20<sup>th</sup> September 2007 and rectified on 5<sup>th</sup> day of April 2017 the deceased's estate comprising of L.R. No. Kiambaa/Ruaka/40 was shared out with Mary Njoki Kamau getting 1.3 acres as per the court's judgment dated 29<sup>th</sup> September 2017 and the balance shared out equally amongst the beneficiaries inter alia Jane Wanjiru Kiarie, Hannah Nduta Karomo, Prischillah Nyambutu Munga, Elizabeth Wangeci Ngugi, Marion Wanjuhi Ngugi, Rachael Kaheti Kiarie.

2. Despite every effort by beneficiaries besieging Jane Wanjiru Kiarie the sole Administratrix to sign all necessary transmission forms in favour of the beneficiaries to their respective shares, the said Administratrix has been reluctant or adamant.

3. Consequently, Milliam Njoki Njoroge on her own behalf and with authority of her co-beneficiaries namely Wanjohi, Ngugi Njuguna and Francis Munga Ngwiri moved this court vide a summons dated 13<sup>th</sup> June 2018 seeking orders as follows:

**(a) That Jane Wanjiru Kiarie the sole Administratrix of the estate of the deceased herein be ordered to complete the administration of the estate of the deceased by executing forms RL 7 and RL 19 and provide passport photographs, PIN number and national Identity Card in regard to the applicant's share in L.R. No. Kiambaa/**

**Ruaka/40.**

**(b) That in the event Jane Wanjiru Kiarie refuses to comply, the court do authorize the Deputy Registrar of this honourable court to sign the said forms.**

4. The application is predicated upon grounds set out on the face of it and affidavit in support. Upon service of the application in the respondent, she (Administratrix) refused to file any response. However, one Mary Njoki Kamau did file a replying affidavit deponed on 11<sup>th</sup> March 2019 supporting the application subject to her getting her 1.3 acres out of the said parcel in conformity with the court order of 29<sup>th</sup> September 2017.

5. When the matter came for hearing there was no appearance on the respondent's (Administratrix) side hence the matter proceeded exparte.

6. I have considered the application herein which is not opposed. There is no doubt that there is a confirmed grant in which this court directed in its judgment of 29<sup>th</sup> September 2017 that L.R. Kiambaa/Ruaka/40 be shared out amongst the children of the deceased after Mary Njoki Kamau getting 1.3 acres. However the respondent who intimated of filing an appeal against the said judgment failed to proceed with the appeal hence the orders of 29<sup>th</sup> September 2017 are in force.

7. The Administratrix is an appointee of the court exercising authority of a trustee for the administration of the estate. The estate cannot remain unadministered for ever. The administration of the estate must come to an end.

8. Accordingly, I am satisfied that it is in the interest of justice that litigation comes to an end and the beneficiaries get their fair share. To that extent, it is my finding that the application which is not opposed is merited and the same is allowed with orders:

**(a) That the administratrix be and is hereby ordered to sign all necessary transfer forms among them forms R.L. 7 and R.L.**

19, provide her passport photographs, PIN number and National ID Cards within 60 days in default the Deputy Registrar shall execute the same.

(b) That the rectified certificate of confirmation indicating that Mary Njoki Kamau's share was equal to other beneficiaries be amended and rectified to read 1.3 acres and the balance out of L.R. Kiambaa/ Ruaka/40 be shared out equally amongst the rest of the beneficiaries in conformity with this court's judgment of 29<sup>th</sup> September 2017.

(c) The certificate of confirmation issued on 5<sup>th</sup> April 2018 with an error stated in (b) above be surrendered to the Deputy Registrar for cancellation.

(d) Each part to bear his or her own costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 3<sup>RD</sup> DAY OF JUNE, 2019.

J.N. ONYIEGO

(JUDGE)