



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT KISUMU**

**SUCCESSION CAUSE NO. 1 OF 2016**

**IN THE MATTER OF THE ESTATE OF**

**RAPHAEL OMUGA ADIEL (DECEASED)**

**AND IN THE MATTER OF APPLICATION BY**

**BETWEEN**

**ROSE OMUGA .....APPLICANT**

**AND**

**PAUL OSCAR PAMBO .....RESPONDENT**

**RULING**

1. It is now 14 years since Raphael Omuga Adiel (“the deceased”) died intestate and was survived by six daughters and five sons. On 10<sup>th</sup> July 2003 a grant of letters of administration intestate was issued to Paul Oscar Pambo and Rose Omuga. I confirmed the grant on 24<sup>th</sup> April 2017 and a certificate of confirmation of grant duly issued. On 16<sup>th</sup> October 2017 the Certificate of Grant issued on 24<sup>th</sup> April 2017 was revoked by consent and a fresh confirmed grant issued on 16<sup>th</sup> October 2017 as per the wishes of the beneficiaries.

2. Although the beneficiaries are agreed that each beneficiary should have an equal share of the properties, they are not agreed on how **KITALE MUNICIPALITY/BLOCK 19/1 BIDII** and **NAKURU/UMOJA/BLOCK 8504/21** should be divided given the hostile and frosty relationship between the sons and daughters of the deceased.

3. Dividing the land and allocating it in an equitable manner is not an enviable task for the court and having considered the proposals, I decline to enter such an exercise as I cannot possibly divide both properties as this requires consideration of the typography of the land, land use regulations and valuation to ensure that each party gets an equal share. This task can only be done by experts.

4. As such I direct that the parties agree on a surveyor and land valuer to assist them divide the property in a manner that takes into account all their interests. They shall share the costs as between them equally. If the parties fail to agree on the experts within 30 days, I shall make an appointment from a list provided by the respective professional bodies.

**DATED and DELIVERED at KISUMU this 1<sup>st</sup> day of February 2018**

**D. S. MAJANJA**

**JUDGE**

Ms Pekke instructed by Pekke and Company Advocates for the applicant.

Mr Odeny instructed by Bruce Odeny & Company Advocates for the respondent.