



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**SUCCESSION CAUSE NUMBER 646 OF 2015**

**IN THE MATTER OF THE ESTATE OF PATRICIA AMELIA LUCKHURST also known as PATRICIA AMELIA MORSON  
(DECEASED)**

**RULING**

1. Before Court is the chamber summons dated 22/3/2017 in which William Harry David Kerr (Applicant) seeks that such reasonable provision be now made for him as a dependant of the deceased of her net estate as the courts thinks fit. He also prays that costs be provided for.

2. This application was not contested.

3. The parties amicably settled the matter vide a consent dated 16th October, 2017 and filed in Court on the 18th October, 2017.

4. The terms of the consent are as reproduced hereunder;

**1. It is acknowledged that, by her last Will Patricia Luckhurst, granted unto David Kerr (the Applicant) a lifelong right to remain in the residence on the property i.e. L. R. No. 7022/31.**

**2. That by the same will Patricia Luckhurst granted beneficial interest in the said property to her daughters Melissa Amelia Luckhurst and Lorraine Estelle Luckhurst (the Beneficiaries of the Estate).**

**3. That in order to fulfill the wishes of Patricia Luckhurst, the Beneficiaries of the Estate and David Kerr have agree that:-**

**3.1 David Kerr shall remain in the main residence on the property for life free of any charges.**

**3.2 In order to provide a reasonable living space to David Kerr, the parties have mutually agreed that the property shall be sub-divided on the ground as per the attached Map (Annixture A) and David Kerr shall occupy the area delineated in Red thereon.**

**3.3 David Kerr shall have access to the property at all times through the existing road or any other reasonable access road that may be carved out in future by the Beneficiaries.**

**3.4 David Kerr shall remain solely responsible for the maintenance and upkeep of the residence he shall reside in and the portion of the property he shall occupy and the use thereof shall remain residential.**

**3.5 David Kerr shall have access to the borehole and to the water it provides, and he will install a separate water meter and pay for the water consumed.**

**3.6 The Beneficiaries of the Estate shall be at liberty to execute a formal sub-division of the property at their cost should they so desire and they shall be at liberty to deal with, use or manage the remainder of the property at their sole discretion.**

**3.7 Upon either David Kerr's demise or David Kerr surrendering possession of the property, the property shall revert to the Beneficiaries of the Estate with its contents save for David Kerr's personal assets thereon.**

5. The consent is executed by the respective advocates of the parties.

6. Having considered the application and the subsequent consent entered by the parties, I am satisfied that, the same is properly executed and filed and in no way promotes an illegality.

7. And since all parties are in agreement, I proceed to adopt the consent dated 16/10/2017 as orders of this Court.

**Dated and Signed at Nakuru this 12th day of June, 2018.**

**A. K. NDUNG'U**

**JUDGE**