



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**MISCELLANEOUS SUCCESSION CAUSE NO. 408 OF 2007**

**IN THE MATTER OF THE ESTATE OF STEPHEN**

**M'MIRITI M'MUNGANIA (DECEASED)**

**LOICE MWARI M'MIRITI.....PETITIONER**

**VERSUS**

**MARGARET M'MIRITI.....1<sup>ST</sup> OBJECTOR**

**ANNE MWARI M'MIRITI.....2<sup>ND</sup> OBJECTOR**

**RULING**

1. On 11<sup>th</sup> May, 2017, I delivered a judgment whereby I distributed the estate of the deceased amongst his three houses. I have again looked at the said judgment and discovered that it has several errors. Those are errors that this court committed and if they are corrected they will cause no prejudice to any of the parties.

2. **Section 76** of the Law of Succession Act, **Cap 160** of the Laws of Kenya, ("the Act") permits the court to revoke a grant either on its own or on application on the grounds set out thereunder. **Section 47** of the Act gives this Court discretion and jurisdiction to pronounce decrees and make orders as may be expedient for the ends of justice.

3. In this regard, I have noted the following errors in the said judgment.

a. In paragraph 9(e), it is indicated that since the deceased was polygamous, Section 42 of the Act applies;

b. In paragraph 10(i) when distributing Plot No. 27 Nanyuki to the 3<sup>rd</sup> house of Loise Mwari Miriti, the name of Eunice Kathambi M'Miriti was inadvertently left out.

3. In paragraph 10 (j) when distributing plot No. 2787/1550, Nanyuki, while the property was divided into three (3) in accordance with the houses, only two portions were distributed to two houses leaving one portion out undistributed and one house out.

4. Accordingly, under **Section 47 of the Act and Article 159 of the Constitution Act** and in order to perfect the said judgment, I hereby recall that judgment review the same and correct the said errors as follows: -

a. The distribution is to be in accordance with **Section 40** of the Act;

**b. Plot No. 27 Nanyuki** is distributed to: -

i. Loise Mwari Miriti

ii. Martin Murithi M' Miriti

iii. Moses Munene M'Miriti

iv. Fridah Karambu M'Miriti Equal shares

v. Caroline Kagwiria M'Miriti

vi. Mercy Nkatha M'Miriti

vii. Joseline Kagwiria M'Miriti

viii. Eunice Kathambi M'Miriti

**c. Plot No. 2787/1550, Nanyuki Town.**

**Left hand side as one faces away from the building -25X100ft**

i. Margaret M'Miriti

ii. Julius Mutwiri M'Miriti

iii. Peter Kithinji M'Miriti Equal shares

iv. Gladys Nkirote M' Miriti

v. Mbaya M' Miriti

**d. Backside of the building -25X50ft**

i. Loise Mwari Miriti

ii. Martin Murithi M' Miriti

iii. Moses Munene M'Miriti

iv. Fridah Karambu M'Miriti Equal Shares

v. Caroline Kagwiria M'Miriti

vi. Mercy Nkatha M'Miriti

vii. Joseline Kagwiria M'Miriti

viii. Eunice Kathambi M'Miriti

**e. Right hand side as one faces away from the building -25X50 ft**

i. Julius Mwebia M'Miriti

ii. Jane Gacheri M' Miriti

iii. Joshua Mwenda M'Miriti Equal shares

iv. Doris Makena M'Miriti

v. Mary Gakii M'Miriti

It is so ordered.

**Dated** and **Delivered** this 16<sup>th</sup> day of July, 2018

**A. MABEYA**

**JUDGE**