

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

SUCCESSION CAUSE NO. 683 OF 2003

IN THE MATTER OF THE ESTATE OF MUYA MURAGURI (DECEASED)

ESTHER NJERI MUYA.....APPLICANT/1ST ADMINISTRATRIX

VERSUS

GEOFFREY MWANGI MUYA...RESPONDENT/2ND ADMINISTRATOR

RULING

1. The deceased Muya Muraguri died intestate on 18th October 2000 at Gikoe in Muranga. He was survived by one widow Esther Njeri Muya (the 1st administratrix/applicant) whose children are Stephen Mwangi Muya, Hannah Wangui Muchori, Mary Nyambura Kariuki and Judy Muthoni Muya. He was predeceased by his first wife with whom he had one child Geoffrey Mwangi Muya – Son (2nd administrator/respondent). A joint grant of letters of administration intestate was issued to the applicant and respondent on 14th February 2006, and confirmed on 5th November 2008. In the certificate of confirmation the applicant, respondent and Stephen Mwangi Muya were ordered to jointly own in equal shares each of the following properties: L.R No. 19/Nyakianga/961; shares Gikoe Land Estate House; shares in Muranga Njumbi Boarding & Lodging; shares in Njumbi Enterprises; shares in Mururiini Butchery; and shares in Plot No. 10 Gikoe Market. Judy Muthoni Muya was to get shares in Kieni Bar and Restaurant absolutely.

2. In the application dated 16th November 2010 the applicant sought to have the certificate of confirmation amended so that LR No. 19/Nyakianga/961 be subdivided into 3 equal shares, each to go to the applicant, the respondent and Stephen Mwangi Muya, respectively. The application was opposed, but the court delivered a ruling on 15th July 2001 allowing the same.

3. In the instant application dated 24th May 2017 the applicant seeks that the respondent be compelled to sign mutation and land registration forms to effect the subdivision and sharing that was ordered in the amended certificate of confirmation. This was because the respondent had refused to sign the papers. It was sought that if he does not sign the Deputy Registrar be allowed to execute the papers on his behalf.

4. The respondent and Stephen Mwangi Muya opposed the application. The respondent was still opposed to the amendment of the certificate of confirmation, and claimed that the reason why the applicant wanted a separate title was so that she could give it to her daughter Judy Muthoni Muya. The allegation by Stephen Mwangi Muya was that both the applicant and the respondent had illegally sold away some of the estate of the deceased and benefitted alone. They had also illegally given themselves some other properties of the deceased. He wanted the court to consider his concerns before ordering the subdivision.

5. I have considered this application. The amendment to the certificate of confirmation that was allowed on 15th July 2011 was not challenged, either on appeal or review. As matters stand, the applicant, respondent and Stephen Mwangi Muya are supposed to equally share LR No. 19/Nyakianga/961. The parcel has to be subdivided to enable each to get a separate title. It is clear that the respondent (who is the 2nd administrator) does not want to abide. He is worried about what the applicant will do with her title once the subdivision goes through. Legally, the worry is misplaced. It is none of her business what each recipient does with what he/she gets from the parcel.

6. Court orders have to be obeyed. I direct that, within 14 days from today, the respondent shall sign all the necessary documents to effect the equal sharing of LR No, 19/Nyakianga/961. If he fails to sign as directed, the Deputy Registrar will sign on his behalf.

7. In those terms, the application is allowed with costs.

DATED and DELIVERED at NAIROBI this 1ST day of OCTOBER 2018.

A.O. MUCHELULE

JUDGE