



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**FAMILY DIVISION**

**SUCCESSION CAUSE NO. 409 OF 1987**

**IN THE ESTATE OF JOHANA GITEMBEI ALIAS GITEMBEI GIKEBE**

**PAUL MBURU NJOROGE.....APPLICANT**

**VERSUS**

**JOSEPH WAWERU.....ADMINISTRATOR/RESPONDENT**

**R U L I N G**

1. Before court is an application dated 13<sup>th</sup> July 2017 seeking for orders that:

(1) The Registrar do execute all the relevant documents to facilitate the distribution of the estate.

(2) The Registrar cancels the titles issued for L.R. No. Limuru/Bibirioni/39, the original title be restored and the property be re-distributed as per the ruling of 14<sup>th</sup> January, 2011.

(3) That the government District Surveyor oversees the subdivision of parcel No. Limuru/Bibirioni/39 as per the ruling of 11<sup>th</sup> January, 2011.

(4) The OCS Tigoni Police Station oversees the enforcement of these orders.

(5) That the costs of the application and consequential distribution (sic) be shared equally amongst the houses of the deceased.

2. The application is based on the affidavit of the applicant Joseph Waweru and on grounds that, the parties were directed on how the estate was to be shared in the ruling of 11<sup>th</sup> January 2011 was likely to have the registrar execute the transfer, and the co-administrator has passed away.

3. In the supporting affidavit of even date, the applicant contends that beneficiaries have failed to co-operate in order to have the estate distributed, the deceased administrator leased out land distributed to other beneficiaries, and there is need to restore the title No. Limuru/Bibirioni/39 to its original form to allow re-distribution.

4. In a replying affidavit by one Gikebe Gitembei he states that the 1<sup>st</sup> house has always been willing to cooperate, that the widow of co-administrator relocated and the property has not leased out as alleged, that Limuru/Bibirioni/39 is 13.6 acres and not 12.5 acres and after distribution ½ acre remains, which the applicant wants to keep to himself, and there is need to see the title for the Subukia farm.

5. In a rejoinder the applicant states that he is not interested in the ½ acre in the Limuru/Bibirioni/39 property and that title for the Subukia has not issued.

6. Having considered the application there appears to be no contention with the Grant as issued save for the extra ½ acre in the Limuru land. However the bad blood between the beneficiaries is likely to delay this old matter. Consequently I order and direct as follows:

a. The Grant be amended to the extent that Gikebe Gitembei gets 2 acres of Limuru/Bibirioni/39.

b. The land Registrar Kiambu cancels titles if any issued from L. R. No. Limuru/Bibirioni/39, restores the original title.

- c. The Registrar High Court executes all relevant documents to facilitate transfers in line with the amended confirmed grant.
- d. The Government District Surveyor oversees the subdivision of Parcel No. Limuru/Bibirioni/39 in accordance with the confirmed Grant.
- e. The O.C.S Tigoni Police Station do oversee the enforcement of the order.
- f. Costs of subdivision and/or related expenses be shared equally by the two houses of the deceases.

**DATED, SIGNED and DELIVERED at NAIROBI this 15<sup>th</sup> DAY OF November, 2018.**

.....

**ALI-ARONI**

**JUDGE**