REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 1910 OF 2014

IN THE MATTER OF THE ESTATE OF PETER WANJAMA WATHEURI Alias **PETER WANJAMA (DECEASED)**

RULING

The Applicant filed under certificate of urgency on 13th December, 2016 on the following grounds that;

> **1. The property known as Nairobi Land Reference Number 36/250/1 (Original Number 330/184/2) ("the property") is registered in the name of fourteen (14) individuals as tenants in common.**
>
> **2. Eight (8) of the registered proprietors are deceased and their respective beneficiaries together with the living proprietors agreed to sell the property to a third party and limited grants were obtained to actualize this intention.**
>
> **3. The limited grants obtained in the succession cases for the eight (8) deceased proprietors, including the cause before this Honourable Court did not provide for or allow the transfer of the property.**

The application is with regard to the following Court files;

> **a. Succession Cause No. 1347 of 2014**
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> **b. Succession Cause No. 1348 of 2014**
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> **c. Succession Cause No. 1349 of 2014**
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> **d. Succession Cause No. 1350 of 2014**
>
> **e. Succession Cause No. 1351 of 2014**
>
> **f. Succession Cause No. 1352 of 2014**
>
> **g. Succession Cause No. 1353 of 2014 (not retrieved and/or found)**

The application is not granted because the rectification sought is to transform the limited grant *colligenda bona* which is for the purpose of gathering and collecting the assets that comprise of the deceased's estate and not to facilitate sale of property. The limited grant cannot legally be amended to allow sale or transfer of the suit property **L.R 36/250/IR 330/184/2.** The Applicants cannot rely on the provisions cited as the sale and transfer of immovable property is not allowed until a full grant is obtained under Section 67 Law

of Succession Act Cap 160 and the grant is confirmed. This is provided by Section 55 (1) and Section 82 (b) (ii) of Law of Succession Act Cap 160. The Applicants to file for full grant and confirmation of grant to facilitate the sale of the suit property.

DELIVERED SIGNED & DATED AT NAIROBI THIS 20TH DAY OF FEBRUARY 2017.

M. W. MUIGAI

JUDGE

IN THE PRESENCE OF:

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