

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

H.C SUCCESSION CAUSE NO. 279 OF 2010

IN THE MATTER OF THE ESTATE OF THE LATE JOSEPH

MUTUMA M'RAIKANYA alias JOSEPH MUTUMA

RAIKANYA alias JOSEPH MUTUMA – DECEASED

SARAH KATHURE MUTUMA.....PETITIONER

VERSUS

KAEMBE M'RUTERE.....APPLICANT/INTERESTED PARTY

RULING

The petitioner herein Sarah Kathure Mutuma filed application seeking the court to make an order that Kaembe M'Rutere, the applicant/interested party should pay costs of application she filed on 6th January 2015 to compel the petitioner to transfer to her portion of land No. Kiirua/Naari/1563 as decided in Land Disputes Tribunal Case No. 27 of 2000. The petitioner argued that the applicant having been provided for as an interested party in certificate of confirmation dated 5th July 2011 ought not to have filed an application in court.

By the time the application was made by the interested party herein on 6th January 2015, the administratrix had not executed the transmission of the portion of land the interested party was entitled to as duty that was bestowed upon her by the grant and confirmation of Letters of Administration to distribute the estate of the deceased as consented to by the beneficiaries and the dependants of the deceased. On 7th July 2015 the court gave the Administratrix 60 days to execute the transfer. In essence the interested party's application succeeded. This court cannot therefore make an order for the interested party to pay costs on account of the application. Concerning costs of survey, subdivision registration and legal fees the same should be shared among the beneficiaries according to the portions of land transferred to them. For instance parcel of Land No. Kiirua/Naari/1563 is being shared among 13 beneficiaries and therefore the interested party shoulder cost equivalent to 1/13 of the total amount.

Orders accordingly.

Ruling Delivered and signed on this 21st day of February 2017.

A. ONG'INJO

JUDGE