

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 703 OF 1984

IN THE MATTER OF THE ESTATE OF MAKIMEI KURIA (DECEASED)

RULING

1. The summons dated 20th November 2001 seeks amendment of the certificate of confirmation of grant dated 15th October 1999 so as to reflect that Wanjiru Makimei is entitled to four (4) acres out of Lari/Kambaa/Githogoiyo/50. In the affidavit in support sworn on 20th November 2001, the applicant administrator avers that in his will the deceased had provided that Wanjiru Makimei was entitled to eleven decimal four (11.4) acres out of Lari/Kambaa/Githogoiyo/50 yet that is not reflected in the certificate of confirmation of grant.

2. Obviously, there is confusion as to whether the said Wanjiru Makimei is entitled to four (4) acres or to eleven decimal four (11.4) acres, given that the summons and the affidavit are not in sync.

3. More fundamentally, I have scrupulously perused the will of the deceased on record; I have not come across any provision for Wanjiru Makimei in Lari/Kambaa/Githogoiyo/50. Lari/Kambaa/Githogoiyo/50 is disposed of in clause 3(c) of the will, which states as follows:-

'I give – my farm No. 50 Lari/Kambaa/Githogoiyo to my sons Peter Muturi, Samwel Kuria, Njuguna Makimei and John Kuria in equal shares absolutely...'

4. Clearly, there is no basis for the order sought. I shall accordingly dismiss the application dated 20th November 2001.

5. I note that none of the assets of the estate are situated within Nairobi, but largely in the Lari area of Kiambu County. I shall accordingly direct that the cause be transferred to the High Court of Kenya at Kiambu for final disposal.

DATED, SIGNED and DELIVERED at NAIROBI this 12TH DAY OF MAY, 2017.

W. MUSYOKA

JUDGE