



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUNGOMA
SUCCESSION CAUSE NO. 287 OF 2010
IN THE MATTER OF THE ESTATE OF
WEKESA SIMIYU KUMELO a.k.a

WEKESA SIMIYU.....DECEASED

AND

FRANCIS MANG'OLI WEKESA.....PETITIONER/RESPONDENT

VERSUS

GRACE NAMALWA WEKESA.....BENEFICIARY/APPLICANT

RULING

GRACE NAMALWA WEKESA (the applicant) filed this application dated 20th March, 2017 seeking that this Court issues orders directing the District Surveyor to visit the Land Parcel No. **E. BUKUSU/E. SANGALO/3538 – 3544** and point out, and demarcate on the ground the boundaries for each of the shares and portion due to the beneficiaries.

Further that the OCS **BUNGOMA** Police Station and the Assistant County Commission **KANDUYI** Division or officers delegated under their command be directed to ensure that security and peace is provided during the requested exercise.

The application is based on grounds that the petitioner/respondent **FRANCIS MANGOLI WEKESA** was issued with a certificate of confirmation of grant on 1st November, 2012, for estate of **WEKESA SIMIYU KUMELO** where each respective shares was provided to the beneficiaries. Although the respective share are known, it has been impossible to distinguish each share on the ground due to the animosity and threats brought about by the petitioner/respondent who now wants to have lion's shares at the expense of others due to lack of boundary features on the ground.

The applicant sought intervention of the Land Registrar and Surveyor who tried to reconcile the parties in vain and in the supporting affidavit sworn by the applicant she deposes that since the year 2013, and due to reasons best known to the Respondent, it has been difficult for the beneficiaries to identify their exact boundaries on the ground to enable them prepare for any development and planting.

The respondent did not file any reply to the application. I have perused the records on the file while show that grant was enforced on 23rd November, 2012 by **GIKONYO (Judge)** and distribution of the property was as follows:-

1. **FRANCIS MANGOLI WEKESA** **3 acres**
2. **PAUL SIFUNA WEKESA** **3 acres**
3. **GRACE NAMALWA WEKESA** **½ acre**
4. **GERISHON AMAGOYE WEKESA** **2 acres**
5. **GLADYS NAMUKURU WEKESA** **½ acre**
6. **WYCLIFFE PEPELA MUKANDA** **1 acre**
7. **PROTUS WAFULA CHEMWA** **1 acre**
8. **BENEDICTO NYONGESA KHAEMBA** **- Already catered for.**

The administrator has so far done nothing to help the other beneficiaries actualize their inheritance. He has not also filed any response explaining what difficulties he may be experiencing. I therefore allow the application on condition that the applicant will meet the full survey fees plus any incidental costs arising for the security to be given.

Delivered and dated this **12th** day of **July, 2017** at **Bungoma**.

H.A. OMONDI

JUDGE.