



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYERI**  
**SUCCESSION CAUSE NO. 195 OF 2010**

***(IN THE MATTER OF THE ESTATE OF KARIUKI MUIGUA alias KARIUKI MUIGWA alias  
KARIUKI S/O MUIGUA (DECEASED)***

**CHARITY WANJUGU KAROKI *alias***

**CHARITY WANJUGU KARIUKI.....PETITIONER/APPLICANT**

**VERSUS**

**FESTUS MUIGUA KARIUKI.....1<sup>ST</sup> RESPONDENT**

**ISAAC NJUGUNA KARIUKI.....2<sup>ND</sup> RESPONDENT**

**WINROSE WANJIRU KARIUKI.....3<sup>RD</sup> RESPONDENT**

**MOSES KARIUKI NDIRANGU.....4<sup>TH</sup> RESPONDENT**

**CHARLES MUNENE.....5<sup>TH</sup> RESPONDENT**

**RULING**

By an application dated 13<sup>th</sup> June, 2014 the applicant sought for an order from this court to authorise the deputy registrar to sign the transmission documents in respect of land parcel referred to as **LR. No. RUGURU/GACHIKA/65** and to dispense with the original title in respect of this parcel of land in order to facilitate the distribution of the estate.

In the affidavit in support of application, she swore that the grant was made to her on 4<sup>th</sup> January, 2011. Apart from the 3<sup>rd</sup> respondent who is her niece, the rest of the respondents are the applicant's siblings. The latter protested against the confirmation of the grant but their protest was dismissed and the grant confirmed on 23<sup>rd</sup> August, 2013.

While confirming the grant the court, in its judgment delivered on 23<sup>rd</sup> August, 2013, ordered that land parcel **LR. No. RUGURU/GACHIKA/65** be shared equally amongst the applicant and the protestors.

As I understand the applicant, it has been impossible to transfer and register the respective shares of the land in issue as directed by the court because the respondents have refused to sign the transmission form and release the original title.

The application was served on the respondents on 14<sup>th</sup> April, 2015 but as the time it came up for hearing on 18<sup>th</sup> May, 2015, none of them had filed any sort of response to the application. Mr Mugo who held brief for Mr Mwaura for the respondents sought for an adjournment to file a response; in the absence of any reason for the respondents' apparent inaction, I declined to grant the application for adjournment. Accordingly, the application was unopposed.

The judgment in this cause was delivered way back in August, 2013. There is nothing to suggest that it was challenged and even if it was, no order for stay of its execution was ever given. It follows, therefore, that there is no reason why the judgment should not be executed in terms of the confirmed grant. I would in the circumstances allow the applicant's application dated 13<sup>th</sup> June, 2014. Parties will bear their own costs.

**Signed, dated and delivered in open court this 2<sup>nd</sup> day of October, 2015**

Ngaah Jairus

**JUDGE**