

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

P&A NO.2670 OF 2008

IN THE MATTER OF THE ESTATE OF WAMAITHA MUTWEKA (DECEASED)

CYRUS NGUGI WAHU.....APPLICANT

VERSUS

PETER GACHANJA MUTWIKA

WILSON MBURE NGUGI.....ADMINISTRATORS

R U L I N G

This court visited the *Locus in quo* with a view to determining the actual position on the ground of parcels of land distributed to the respective beneficiaries. Peter Gachanja Mutwika now claims that the parcel of land that Cyrus Ngugi was allocated is where his wooden house is situate. He seeks clarification from the court. This court noted that the parcel of land where the wooden house of Peter Gachanja Mutwika is situate is on parcel No. G. Part of the wooden house will have to be demolished because the boundary of the portion of land allocated to Cyrus Ngugi dissects. The iron sheet structure will have to be demolished in its entirety because it is located in the portion of land now belonging to Cyrus Ngugi. Peter Gachanja has requested the court to give him a grace period of six(6) months to relocate from the said portions of land. Cyrus Ngugi and Nancy Muthoni are of the view that the period requested is far too long. In view of the length of time that the dispute has taken, I am of the considered view that since Peter Gachanja is the only member of the family that has been forced to relocate from part of the suit parcel of land which has been allocated to another beneficiary, it is only fair that he be given time to organize himself to relocate from that portion. I will grant him four (4) months from today's date to relocate from the portions of land that have been allocated to Cyrus Ngugi. As regard the portion allocated to Nancy Muthoni, since there were no permanent structures on that portion, Peter Gachanja shall hand over the said parcel of land to Nancy Muthoni with immediate effect. Either party shall be at liberty to apply. Peter Gachanja is further ordered to execute all the conveyancing documents so as to transfer the said portions of land to the said beneficiaries. He shall do so within seven (7) days of today's date or in default the Deputy Registrar of this court shall execute the said documents on his behalf. It is so ordered.

DATED at NAIROBI this 3rd day of MARCH 2014.

L. KIMARU

JUDGE