



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI
SUCC. CAUSE NO.1016 OF 1993

IN THE MATTER OF THE ESTATE OF NG'ANG'A NJOROGE NJUGUNA (DECEASED)

HANNAH WANGUI MIRURU.....1ST APPLICANT

AGNES WANJIRU KINYANJUI.....2ND APPLICANT

MARY NJOKI GITAU.....3RD APPLICANT

VERSUS

MARGARET NJOKI NJOROGE.....RESPONDENT

JUDGMENT

Ng'ang'a Njoroge Njuguna, the deceased to whose estate these proceedings relate left behind three (3) daughters surviving him. The three daughters are Margaret Njoki Njoroge, Mumbi and Wachuka. Margaret Njoki Njoroge is the Respondent (Protestor) in this case. Wachuka is deceased. She left behind four (4) daughters namely Florence Muthoni, Josephine Wambui Wachuka, Agnes Wanjiru Kinyanjui and Mary Njoki Gitau. The four are therefore granddaughters of the deceased. The deceased had one property, namely LR. No. Kiambu/Ngoliba "A"/71. A dispute has arisen between the Applicant and the Respondent in regard to the distribution of the above parcel of land. Both parties agree that the opposing party is entitled to a share of the land. However, each party proposed that the opposing party gets a smaller share of land.

Having evaluated the facts of this case, it was clear to this court that the said parcel of land shall be distributed in accordance to **Section 38** of the **Law of Succession Act**. The land shall be inherited by the daughters of the deceased, in this case Margaret, Mumbi and Wachuka. Mumbi has renounced her right to inherit the land. Wachuka is dead. However, her portion shall be inherited by her four (4) daughters. This court has taken note that the children of Wachuka have lived on the land since the time the deceased was alive. That is a consideration that this court takes into account under **Section 28** of the **Law of Succession Act**.

In the premises therefore, the parcel of land registered as LR. No. Kiambu/Ngoliba "A"/71 shall be distributed as follows:

- I. Margaret Njoki Njoroge – 2 acres
- II. The daughter of Wachuka (the applicants) – 3 acres

There shall be no orders as to costs.

DATED at NAIROBI this 2nd day of JULY, 2014.

L. KIMARU

JUDGE

Order: Leave to appeal granted to both parties.

L. KIMARU

JUDGE