

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

SUCCESSION CAUSE NO.673 OF 1990

IN THE MATTER OF THE ESTATE OF JOSEPH GITAU RICHO (DECEASED)

SAMUEL KINYANJUI.....1ST APPLICANT

EDWARD NDUNGU.....2ND APPLICANT

PETER KIAMBUTHI.....3RD APPLICANT

VERSUS

GEOFFREY RICHU.....RESPONDENT

RULING

The Respondent, with the consent of all the dependants of the estate of the deceased, petitioned the court to be issued with a grant of letters of administration intestate. The grant was issued to him on 7th August 1990. The grant was confirmed on 15th November 1991. In the certificate of confirmation of grant, the court adopted the Respondent's proposal in regard to how he intended to distribute the properties that comprised the estate of the deceased to the beneficiaries. A dispute has arisen between the dependants in regard to how a parcel of land registered as LR. No.Dagoretti/Kinoo/600 is to be distributed on the ground. The Respondent made a proposal which has been objected to by the Applicants. On this court's evaluation of the disagreement, it became apparent that the actual dispute is the position on the ground that each beneficiary is required to get. Part of the dispute is related to the question of access of the various subdivided portions to the main road.

This court is of the view that to resolve the dispute once and for all, the parties herein are ordered to each provide two names of surveyors whom they desire to prepare a draft subdivision plan which shall be approved by the court. Out of the names of the surveyors provided, the court shall nominate two (2) surveyors who shall jointly prepare a draft subdivision plan. During the preparation of the draft subdivision plan, all the parties will be required to be on site. If there shall be any disagreement, the same shall be noted by the surveyors who shall present such complaint to court for determination. The names of the proposed surveyors shall exclude the surveyors who previously surveyed the suit parcel of land. The appointed surveyors will be required to hand in a report together with a draft subdivision plan within thirty (30) days of their appointment by the court. The costs of the two (2) surveyors shall be borne equally by all the dependants. The matter shall be mentioned before a Judge in the Family Division thirty (30) days from the date of delivery of this Ruling to enable that court appoint the two surveyors. There shall be no orders as to costs. It is so ordered.

DATED AT NAIROBI THIS 9TH DAY OF OCTOBER 2014

L. KIMARU

JUDGE