

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

SUCCESSION CAUSE 91 OF 2008

IN THE MATTER OF THE ESTATE OF ALVAN NJERU RUGANO..DSD

RUTH WAITHERA NJERU.....APPLICANT

VERSUS

ISAAC MBOGO NJERU.....1ST PROTESTOR

NICHOLAS NAMU IRERI.....2ND PROTESTOR

NELSON MURIITHI NJERU.....3RD PROTESTOR

RULING

The petitioner herein was issued the grant of letters of administration to the estate of her late husband one Alvan Njeru Rugano on 22/1/2007. She filed an application for confirmation of the grant but the 3 protestors who are her sons filed an affidavit of protest dated 11/12/2007. Their only problem is that they do not want their sisters to inherit their late father's property. In paragraph 7 of their affidavit of protest, they have deponed that the said sisters are married and are living with their husbands. Their mother has nonetheless included them as dependants and has given them parcel **No. GATURI/WERU/5580** which they have all shared. The schedule shows that all the 3 protestors have been given their own individual Titles. They have no basis of denying their sisters their rightful inheritance. They too are children of the deceased. The law of Succession Act does not discriminate between sons and daughters of a deceased. It '*refers*' to children of the deceased

The Court of Appeal has endorsed the provisions of Section 40 of the Law of Succession Act and held that daughters are also entitled to share their deceased's parent's property. The protestors herein have no justifiable grounds to lodge a protest. They are just being greedy and want to deny their sisters what is lawfully theirs. Their protest totally lacks merit. I therefore dismiss the same with costs to the petitioner.

W. KARANJA

JUDGE

Delivered, signed and dated at Embu this 2nd day of June 2009.

In presence of:-Mr. Ithiga for applicant present, protestors present in person.