

REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
SUCCESSION CAUSE NO. 599 OF 2009

IN THE MATTER OF THE ESTATE OF SUSAN NYAMBURA
KAMAU

EDDAH NYAGUTHII KAMAU

APPLICANT/RESPONDENT

VERSUS

JOHNSON KAMAU GACHOKA

APPLICANT

RULING

1. The court notes that the dispute is that Johnson Kamau Gachoka claims title to Land Parcel Number Githi/Kirerema/142 measuring 1.13 hectares.
2. Last time the court ordered that the said title be brought to court, Johnson Kamau Gachoka refused. After warrants were issued, he reported that they had been lost. The court does not find this to be a genuine excuse. I find that Johnson Kamau Gachoka has refused to surrender the original title
3. Further, he is refusing entry, barring other beneficiaries from utilizing Land Parcel Number Githi/Kirerema/142. The court

was informed that the mother's house and grave are in a sorry state. The beneficiaries wished to utilize the same.

4. Though Johnson Kamau Gachoka stays in a different parcel jointly owned with his daughter, Rosemary Wambere Kamau, he is adamant that he is the one to have a say on what happens on the deceased's land. He has excluded the children of the deceased, who was his first wife. He came to court with another wife. He was wondering where he would put her. The court noted that the land in issue belonged to his late wife, not to him. The question of the second wife cannot thus arise. The earlier Johnson Kamau Gachoka notes that even if he has a life interest in the parcel he was given, the better. Upon his demise, the same will be shared equally among the children of the deceased.

5. I therefore direct that the administrator shall proceed with subdivision. The Applicant being in contempt of court, shall not step on Land Parcel Number Githi/Kirerema/142. The administrator shall subdivide the land as hitherto ordered into 6 portions. The share of the late Stephen Njeru Kamau (deceased) should be registered in the name of the estate of the late Stephen Njeru Kamau (deceased) pending succession in that estate.

6. Given the difficulties in accessing the land, the administrator shall ensure that the deceased's house and grave are kept in a

state of repair. Johnson Kamau Gachoka should be given the portion of land nearest to Githi/Kirerema/817. The rest of the deceased's children should share the said parcel among themselves.

7. The parties confirmed that the respondent stays in the land parcel number Githi/Kirerema/817, which is registered jointly between Rosemary Wambere Kamau and Johnson Kamau Gachoka.
8. Until the original title is availed and until the subdivision is complete, Johnson Kamau Gachoka is excluded from stepping into the land. There should be no farmhands on the said parcel unless placed therein by the administrator. The OCS, Mukurweini Police Station to ensure that all the beneficiaries occupy their portions.
9. The court shall, for now, forebear committing Johnson Kamau Gachoka to jail for contempt so long as he obeys the order hitherto issued.
10. The Land Registrar shall dispense with the original title if the title held by Johnson Kamau Gachoka is not surrendered within 30 days. The Deputy Registrar to sign on behalf of any party who is not signing. The administrator to sign on behalf of the deceased Stephen Njeru Kamau.

Determination

11. The court makes the following orders in relation to the applications before court:

- a) I decline to redistribute the estate of the late Stephen Njeru Kamau (deceased). The same shall be registered in the names of the estate of late Stephen Njeru Kamau (deceased), pending succession in that estate. The certificate of confirmation of grant is accordingly rectified.
- b) I find that Johnson Kamau Gachoka has refused to surrender the original title and is barring other beneficiaries from utilizing the land, though he stays in a different parcel jointly owned with his daughter Rosemary Wambere Kamau.
- c) Until the original title is availed and until the subdivision is complete, Johnson Kamau Gachoka is excluded from stepping into Land Parcel Number Githi/Kirerema/142.
- d) There should be no farmhands on the said parcel unless placed therein by the administrator. The OCS, Mukurweini Police Station, to ensure that all the beneficiaries, excluding Johnson Kamau Gachoka, occupy their portions.
- e) The court shall, for now, forebear committing Johnson Kamau Gachoka to jail for contempt so long as he obeys the order hitherto issued.

- f) The Land Registrar shall dispense with the original title if the title held by Johnson Kamau Gachoka is not surrendered within 30 days.
- g) The Deputy Registrar to sign on behalf of any party who is not signing.
- h) The administrator to sign on behalf of the estate of the late Stephen Njeru Kamau (deceased).
- i) The file is closed.

DELIVERED, DATED and SIGNED at NYERI on this 24th day of February, 2026. Ex Tempore Ruling delivered physically in open court.

KIZITO MAGARE
JUDGE

In the presence of: -

Johnson Kamau Gachoka
Eddah Nyaguthii Kamau
David Mwangi Kamau
Rose Wamberere Kamau
Court Assistant – Michael

ORIGINAL