



REPUBLIC OF KENYA



**In re Estate of Ali Kong'ani Kweyu alias Ali Kong'ani Kweyu alias Kong'ani Kweyu (Deceased)
(Succession Cause 7B of 2018) [2024] KEHC 10550 (KLR) (26 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10550 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
SUCCESSION CAUSE 7B OF 2018
SC CHIRCHIR, J
AUGUST 26, 2024**

**IN THE MATTER OF THE ESTATE OF ALI KONGANI KWEYU ALIAS
ALI KONGANI KWEYO ALIAS KONG'ANI KWEYU (DECEASED)**

BETWEEN

SAINA MURANDA KONG'ANI PETITIONER

AND

CONSOLOTA SHIBWABO 1ST RESPONDENT

GERTRUDE MALOBA KONG'ANI 2ND RESPONDENT

AND

FATUMA MALOBA KONG'ANI PROTESTOR

RULING

1. These proceedings relate to the Estate of Ali Kong'ani Kweyu (Deceased). The contestants herein are widows of the Estate and are all Administrators of his Estate.
2. Through the summons dated 23/12/2019, Saina Muranda Kong'ani (Petitioner) filed summons for Confirmation of Grant. the Petitioner listed the propertyIn the Affidavit in support of the summons she listed the following Estate Assets as:
 - i. South Teso/Amukwa/3030
 - ii. Bukhayo/Kisoko/3041
 - iii. N/Wanya/Matungu/2496
 - iv. N/Wanya/Matungu/2407
 - v. Money in Cooperative Bank



- vi. Motor vehicle Registration No. KND104 - Pick-up
3. She further listed 28 children as belonging to the deceased. She further proposed that the assets be shared equally between the deceased's children.
 4. The Summons attracted a protest by Fatuma Maloba Kong'ani (The Protester) . In her Affidavit of protest, she states that she was not aware of the filing of the Summons for Confirmation of Grant. She further stated that she had 6 children with the deceased and was also taking care of the deceased's five other children born out of a previous marriage; that in the year 2000, the deceased settled his wives in various parcels. She proposes that each family therefore should settle in the land that the deceased had allocated to them.
 5. I have perused the various affidavits and the oral testimonies of the witnesses. I have noted that the Petitioner admits that she and her children reside in 2 parcels of land. The parcels are Titie No. Bukhayo/Kisoko/3041 and another unnamed one. The protester has also informed the court that the 4th wife, one Consolata Shibwabo Kong'ani resides in Ejinja in an unidentified land parcel measuring about 9 acres. The parcel number of this land is however not disclosed.
 6. It is not also clear as to how many children the deceased had. whereas the Petitioner listed 28 children while in her oral testimony, she told the court that she did not know how the number of the deceased's children. Her witness (DW2) stated that the deceased had 25 children. Further, whereas the Petitioner and DW2 told the court that the 4th wife had no children, the Protester told the court she had 4 children.
 7. Consequently, I decline to consider the confirmation of grant at this point, until the full disclosures are made in respect to the children of the deceased and all their particulars as well as an inventory of the assets as aforesaid.
 8. I hereby make the following directions:
 - a). The Petitioner to make a full disclosure of the land parcel she currently occupies apart from Bukhayo/Kisoko/3041. Such disclosure to include particulars of proprietorship.
 - b). Consolata Shibwabo Kong'ani to provide the particulars of the land parcel she occupies in Ejinja. The disclosure to be accompanied by a certificate of official search in respect of the said property.
 - c). The Petitioner and Protester to make full disclosure of the children of the deceased categorised into houses. If any of the dependants is deceased, it should be stated whether such a child/child left behind any children.
 - d). The parties to the file further Affidavit for purposes of the above discloses.
 - e). Compliance is within 30 days from the date of this Ruling.
 - f). This matter will be mentioned on a date to be stated at the time of the delivery of this Ruling to confirm compliance with above directions.

DATED, SIGNED AND DELIVERED AT NAIROBI, VIA MICROSOFT TEAMS THIS 26TH DAY OF AUGUST 2024.

S.CHIRCHIR

JUDGE

In the presence of



Godwin- Court Assistant

No appearance by the parties.

