



REPUBLIC OF KENYA



In re Estate of the Late Joel Ndoho Mwaura (Deceased) (Succession Cause E890 of 2023) [2024] KEHC 13176 (KLR) (Family) (31 October 2024) (Ruling)

Neutral citation: [2024] KEHC 13176 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE E890 OF 2023
HK CHEMITEI, J
OCTOBER 31, 2024
SUCCESSION CAUSE NO. E890 OF 2023
IN THE MATTER OF THE ESTATE OF THE LATE JOEL NDOHO MWAURA (DECEASED)**

RULING

1. The application dated 20th March 2024 prays for orders that the grant of letters of administration issued to Isaiah Mwaura Ndoho and Emily Wambui Ndoho on 13th September 2023 be confirmed.
2. The application is supported by their joined affidavit sworn on the same date which also contains the consent by the rest of the beneficiaries except Isaiah Mwaura Ndoho. As a matter of fact, the said Isaiah Mwaura Ndoho has not signed the affidavit in support.
3. When the matter came up for hearing there was an opposition from the Full Gospel Churches of Kenya Kabete stating that they had purchased land parcel number Kabete/Nyathuna/102 from the deceased. The court directed the said church to file the relevant response by way of affidavit.
4. One Rev. G Hinga Mwaura on behalf of the church swore an affidavit dated 2nd July 2024 in which it gave chronological evidence of how the deceased sold the aforementioned parcel of land to the church at a total purchase consideration of Kshs. 700,000/= on 29th July 1999. On the said date the church made a down payment of Kshs. 300,000/=.
5. On 12.1.2000 they paid Kshs.100,000/= to the deceased and further Kshs.100,000/= on 3.8.2000.
6. After the deceased had died, he went on, they made a payment of Kshs. 75,000/= to the widow one Elizabeth Nyambura. They made further payments of Kshs. 75,000/= to the deceased children where they also surrendered to them the original title deed.
7. He deponed also that they agreed that the balance of Kshs 40,000 will be paid upon transfer being effected.



8. It was thus not true that they did not have a claim over the property and that the opposition by one of the beneficiaries was wrong as the rest of the family members were well aware of their parents transaction with the church.
9. There was no response to the said affidavit and consequently the court takes it that the parties including the said Isaiah were fully aware that the church was an interested party in the estate.
10. This court is satisfied that indeed the church was a creditor having purchased the land from the original owner who partially received the purchase consideration and the balance later paid to the widow who unfortunately passed on as well leaving the children who continued receiving the balance save for Kshs. 40,000/= which remained and awaited a formal transfer.
11. In the premises the court has no option but to declare that land parcel number Kabete/Nyathuna/102 be transmitted to the Full Gospel Churches of Kenya Kabete Local branch who shall pay the balance of Kshs. 40,000/= to the administrators of the estate herein upon transmission.
12. The application dated March 20, 2024 is allowed as prayed with the above parcel being transmitted to the church.
13. Costs shall be in the cause.

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAIROBI THIS 31ST DAY OF OCTOBER 2024.

H K CHEMITEI

JUDGE

