



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate on Raphael Ayisi Liboni (Deceased) (Succession Cause  
721 of 2011) [2023] KEHC 2633 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2633 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
SUCCESSION CAUSE 721 OF 2011**

**WM MUSYOKA, J**

**MARCH 24, 2023**

**RULING**

1. Am called upon to determine a summons for confirmation of grant, dated January 22, 2022. The beneficiaries are listed as 1 widow, 3 sons and 2 daughters, that is Rosemary Queen Reri, Josephat Songore Peri, Bonface Atolwa, Stefano Machafu Peri, Irine Isalo Peri and Harriet Imbiti Shitundu. It is proposed that the entire estate devolves wholly upon the widow.
2. The information given in the application is misleading. The alleged widow is not a widow of the deceased, but of a late son of the deceased. She is a daughter-in-law of the deceased, not his widow. Her children are listed as children of the deceased, yet they are not, for they are the grandchildren of the deceased.
3. When the matter came up for hearing, on April 26, 2022, the administratrix disclosed that the deceased had 4 children, being Leonida Shisiali, Martin Igado, Ernest Shitundu, Fredrick Apoti and Anthony Peri. The husband of the administratrix was the late Anthony Peri. She stated that all the other children of the deceased were dead, that is to say Leonida Shisiali, Martin Igado, Ernest Shitundu and Fredrick Apoti, and that they had not been survived by children, except for Ernest Shitundu, who was survived by 1 child, Harriet Imbiti Shitundu, a minor.
4. What the foregoing then means is that the deceased was survived by 2 individuals, Anthony Peri Ayisi and Harriet Imbiti Shitundu, who were his immediate survivors. Harriet Imbiti Shitundu steps into the shoes of her late father, Ernest Shitundu, in terms of section 41 of the *Law of Succession Act*, Cap 160, Laws of Kenya. The estate shall, therefore, be shared out equally between the 2, in keeping with section 38 of the *Law of Succession Act*. The grant herein is hereby confirmed, on terms that Butso/ Shikoti/441 shall be shared equally between the late Anthony Peri Ayisi and Harriet Imbiti Shitundu. The  $\frac{1}{2}$  share due to the late Anthony Peri Ayisi shall devolve upon his estate, to be distributed in succession proceedings to be initiated in his name, as it would appear that there are individuals claiming purchasers' interests. The  $\frac{1}{2}$  share for Harriet Imbiti Shitundu shall devolve upon her, to be held in trust for her by the administratrix, Rosemary Queen Reri, until she attains the age of majority. A certificate of confirmation of grant shall issue in those terms.



5. It is so ordered.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA ON THIS.....24<sup>th</sup>  
.....DAY OF .....March.....2023**

**WM MUSYOKA**

**JUDGE**

**Erick Zalo, Court Assistant.**

**Rosemary Queen Reri, the administratrix, in person.**

