



REPUBLIC OF KENYA



In re Estate of Janet Kainda M’riria (Deceased) (Succession Cause 65 of 2016) [2023] KEHC 20884 (KLR) (27 July 2023) (Ruling)

Neutral citation: [2023] KEHC 20884 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 65 OF 2016
TW CHERERE, J
JULY 27, 2023
IN THE MATTER OF THE ESTATE OF JANET KAINDA
M’RIRIA(DECEASED)**

BETWEEN

RAEL KANANA MARETE PETITIONER

AND

FESTUS MWIRIGI PROTESTOR

AND

ELIAS MUTUMA INTERESTED PARTY

ROBERT NTARANGWI MUNGANIA INTERESTED PARTY

CAROLINE KAGWIRIA KANYURU INTERESTED PARTY

**SUING AS LEGAL REPRESENTATIVES OF THE ESTATE OF M’MUNGANIA
M’RIRIA**

RULING

1. By a ruling dated November 3, 2022, this court issued an order that $\frac{1}{2}$ share of LR Ntima/Ntakira/565 shall wholly be distributed to Rael Kanana Marete (Petitioner/Respondent).
2. Interested Parties have by summons dated January 21, 2023 sought review of the foregoing order on the ground that by Certificate of Succession dated January 21, 1974 Janet Kainda M’riria(Deceased) was entitled to only $\frac{1}{4}$ share and not $\frac{1}{2}$ of LR Ntima/Ntakira/565 as was distributed to Petitioner/ Respondent.
3. Petitioner/Respondent opposed the application on the ground that she utilizes half the property and the family of M’Mungania M’Riria the other half and that there are no other claimants of the esttae.



Analysis and determination

4. I have considered the application in the light of the supporting affidavit, the replying affidavit and annexures thereto.
5. The law governing issues of review orders is anchored under Section 80 of the Civil procure Act and Order 45 (1) of the Civil Procedure Rules.
6. Under Order 45(1) of the Rules, a party seeking review must prove that the application is filed without unreasonable delay; discovery of new or important matter or evidence which after the exercise of due diligence, was not within his knowledge, or could not be produced by him at the time when the decree was passed or the order made; or on account of some mistake or error apparent on the face of the record or for any other sufficient reason. This position was emphasized in the case of In re Estate of Maero Tindi (Deceased) [2018] eKLR.
7. Applicants claim that the families of Mutunga Riria and Kinyua Riria ought to benefit from this estate but have not been provided for. Unfortunately, no claim has been laid before the court by the alleged beneficiaries and this court cannot therefore decide on matters that have not been properly laid out in evidence.
7. In the end, I find that the summons for review dated January 21, 2023 is not merited and it is dismissed with costs to the Petitioner/Respondent.

DATED AT MERU THIS 27TH DAY OF JULY 2023



WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistant - Morris Kinoti

For Petitioner - Ms. Gikandi for Charles Kariuki & Kiome Associates Adv

For Protestor - Mr. Muthomi for John Muthomi & Co. Advocates

For I. Parties - Mr. Akwalu for Mwenda, Mwarania, Akwalu & Co. Advocates

