



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

SUCCESSION CAUSE NO. 18 OF 2016

**IN THE MATTER OF THE ESTATE OF JOSPHAT GITHUTHA ALIAS JOSPHAT GITHUTHA  
MUTUA KUNGU(DECEASED)**

**RULING**

1. This Court by its Ruling dated 23<sup>rd</sup> July, 2020 appointed the following as administrators of the deceased's estate:-

(i) **Mary Nyambura Kungu**

(ii) **Kimama Githutha Kungu**

(iii) **Magdaline Nyambura Chege**

(iv) **Jane Njeri Githotha**

2. The first two administrators above are from the first house while the latter two are from second house. Most importantly, the Ruling of 23<sup>rd</sup> July, 2020 found that the second house had intermeddled with the deceased's estate during the pending of this cause. The first house through **KIMAMA GITHUTHA KUNGU (Kimama)** alleged that the second house was not keen to have the grant confirmed and the deceased's estate distributed because they control the estate and have continued to benefit from the proceeds of that estate.

3. In my consideration of summons dated 20<sup>th</sup> August, 2020, I have borne in mind the findings of this Court by the ruling of 23<sup>rd</sup> July, 2020. Kimama by that summons seeks confirmation of grant and has made proposals on distribution of the estate.

4. There is an affidavit sworn by **JANE NJERI GITHUTHA (Jane)** sworn on 24<sup>th</sup> May, 2021 whereby the deponent made alternative proposals on distribution of the estate. That affidavit failed to state how or why the distribution proposed by Kimama is unacceptable. Further, the affidavit failed to distribute the entire estate of deceased. Perhaps of more concern the distribution proposed by Jane is biased in favour of the second house. It is for that reason that this Court will accept the mode of distribution proposed by Kimama.

5. In the end, I order that the grant dated 23<sup>rd</sup> July, 2020 be confirmed as follows:-

(a) **NG'ENDA/NYAMANG'ARA 289** to be shared in equal shares between the first house and second house.

(i) **FIRST HOUSE**

1. JOSPHAT GITHUTHA MUTUA

2. MARY NYAMBURA KUNGU

3. KIMAMA GITHUTHA KUNGU

4. JOSEPH GITHUTHA WAWERU

(ii) **SECOND HOUSE**

1. MAGDALINE NYAMBURA CHEGE

2. JOHN MUTUA GITHUTHA
3. ROSEMARY MUTHONI GITHUTHA
4. JANE NJERI GITHUTHA
5. JOYCE WANJIKU GITHUTHA
6. AGNES WANGUI GITHUTHA
7. PAULINE NJOKI

**(b) NG'ENGO/NYAMANG'ARA 1419**

- (i) To KIMAMA GITHUTHA KUNGU (whole)

**(c) KIRAI/MANGU 642** in equal shares to:-

1. MAGDALINE NYAMBURA CHEGE
2. JOHN MUTUA GITHUTHA
3. ROSEMARY MUTHONI GITHUTHA
4. JANE NJERI GITHUTHA
5. JOYCE WANJIKU GITHUTHA
6. AGNES WANGUI GITHUTHA
7. PAULINE NJOKI

**(d) NG'ENDA/NYAMANG'ARAT 198** in equal shares to:-

1. JOSPHAT GITHUTHA MUTUA
2. MARY NYAMBURA KUNGU
3. KIMAMA GITHUTHA KUNGU
4. JOSEPH GITHUTHA WAWERU

**(e) NG'ENDA/KIRAI 186** in equal shares to:-

1. MARY NYAMBURA KUNGU
2. KIMAMA GITHUTHA KUNGU
3. JOSEPH GITHUTHA WAWERU
4. JOSPHAT GITHUTHA MUTUA

**(f) NG'ENDA/KIRAI 188** in equal shares to:-

1. MAGDALINE NYAMBURA CHEGE
2. JOHN MUTUA GITHUTHA
3. ROSEMARY MUTHONI GITHUTHA
4. JANE NJERI GITHUTHA
5. JOYCE WANJIKU GITHUTHA

6. AGNES WANGUI GITHUTHA

7. PAULINE NJOKI

**(g) KYANJAU HOUSING CO-OPERATIVE SOCIETY LTD** Plot Nos. 1435, 1490, 1360, 201 King’oki and 1595 in equal shares to:-

1. JOHN MUTUA GITHUTHA

2. MAGDALINE NYAMBURA CHEGE

3. ROSEMARY MUTHONI GITHUTHA

4. JANE NJERI GITHUTHA

5. JOYCE WANJIKU GITHUTHA

6. AGNES WANGUI GITHUTHA

7. PAULINE NJOKI

**(h) Money in Barclays (ABSA) Bank** in equal shares to:-

1. MARY NYAMBURA KUNGU

2. KIMAMA GITHUTHA KUNGU

**(i) Rental income of L.R. No. 75/668 BURUBURU from 6<sup>th</sup> May, 2012 to 24<sup>th</sup> March, 2022** in equal shares to:-

1. MAGDALINE NYAMBURA CHEGE

2. JOHN MUTUA GITHUTHA

3. ROSEMARY MUTHONI GITHUTHA

4. JANE NJERI GITHUTHA

5. JOYCE WANJIKU GITHUTHA

6. AGNES WANGUI GITHUTHA

7. PAULINE NJOKI

**(j) LR NO. 75/668 BURUBURU** in equal shares to:-

1. KIMAMA GITHUTHA KUNGU

2. MARY NYAMBURA KUNGU

**(k) SHARE CERTIFICATE NO. 275 KYANJAU HOUSING CO-PERATIVE SOCIETY** in equal shares to:

1. MARY NYAMBURA KUNGU

2. KIMAMA GITHUTHA KUNGU

3. JOSEPH GITHUTHA WAWERU

4. JOSPHAT GITHUTHA MUTUA

(l) The Deputy Registrar of this Court shall sign on behalf of any administrator who declines to sign documents relating to transmission of the deceased’s estate to beneficiaries as set out in this Ruling.

(m) The Land Registrar is authorised to put into effect the mode of distribution in this ruling notwithstanding the absence of the original title documents.

6. It is so ordered.

**RULING DATED AND DELIVERED AT KIAMBU THIS 24TH DAY OF MARCH, 2022.**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant : Mourice

For Petitioner: - KIMAMA GITHUTHA KUNGU :- Present in person

For Objectors :- No appearance

**RULING** delivered virtually.

**MARY KASANGO**

**JUDGE**