



REPUBLIC OF KENYA



KENYA LAW
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In the Matter of Estate of Manene Mwitw (Deceased) (Succession Cause 88 of 1991) [2022] KEHC 677 (KLR) (25 May 2022) (Ruling)

Neutral citation: [2022] KEHC 677 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 88 OF 1991
PJO OTIENO, J
MAY 25, 2022**

BETWEEN

JOHN MUTHURI MANENE PETITIONER

AND

ZIPPORAH NANCIE M'IMANENE APPELLANT

RULING

1. The Applicant, Zipporah Nancie M'imanene by a Summons dated 20.9.2021 sought orders that being a beneficiary with a life interest in the four parcels of land known as Nkuene/mikumbune 2904, 2905, 2906 and 2907, her life interest be terminated and of the four parcels of land, three be transferred to her three daughters while she retains one.
2. The grounds of the application disclosed on its face and on the Affidavit sworn in support thereof were to the effect that she wishes to terminate the life interest and transfer the property to the daughters who were not provided for in the scheme of distribution of the estate. She contends that the Administrator had applied to terminate her life interest, the application was allowed but the grant was not rectified to the same effect adding that all the children had consented to the application and annexed an Affidavit by the Administrator to that effect.
3. Unexpectedly, the application was opposed by the Administrator by the Replying Affidavit sworn on the 13.12.2021. The major contention in the affidavit is that the life interest upon the applicant when terminated would yield the property reverting to the sons, that none of the sons had consented to the proposal to give the parcels to the daughters and because and because some of the daughters have children with unknown fathers who stay on the land and it is those children who deserve getting the land. The Administrator takes its view that the application was a machinations by the daughters called Monica Nduru and Isabela Nceri and not the applicant who is now very old.



4. What comes out conspicuously from the application and the rival affidavits filed is that the deceased was survived by three daughters who were totally left out by the Administrator at the point of distribution. That is what the Kenyan Courts now consider retrogressive, negative and discriminative patriarchy. It is not made better that a daughter is shunned but her children, whether girls or boys, are recognized in her place. If repetition would make it clearer, all children irrespective of gender are entitled to equality, to inherit from the parents. This would thus have been a case for outright revocation of the certificate of grant and fresh redistribution had the Court be moved. However it would appear, when the Court interviewed the daughters that they are content to get the shares currently held by the mother.
5. On account of the outright discriminative distribution done in this file way back on the 2nd April 1992, and the fact that the three daughters are content with the mother's proposal, I do allow the application dated 20.9.2021 as prayed.
6. I note that there is an information by the Administrator that the life interest of the mother was intended to revert to the boys. I see that to be a perpetuation of the discrimination on account of gender and direct that the parcel to be retained by the mother/applicant shall be so retained in her own right and absolutely bereft of any encumbrances and that she shall be at liberty to deal with the property during her life time as she shall deem fit and expedient.
7. I make not orders as to costs.

DATED, SIGNED AND DELIVERED AT KAKAMEGA, ONLINE, THIS 25TH DAY OF MAY, 2022.

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P.J.O. OTIENO

JUDGE

In the presence of:

No appearance for the Petitioner

No appearance for the Applicant

