



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

SUCCESSION CAUSE NO. 177 OF 1988

IN THE MATTER OF THE ESTATE OF PETER KARANJA - DECEASED

PHILOMENA NJERI KARANJA.....1ST PETITIONER

GRACE WAIRIMU KARANJA.....2ND PETITIONER

VERSUS

ELIZABETH WAMBUI KARANJA.....1ST RESPONDENT

THIGA KARANJA.....2ND RESPONDENT

RULING

1. The deceased Peter Karanja died intestate on 1st May 1978. He was survived by his widow Marion Wangari Karanja, son Thiga Karanja and daughters Elizabeth Wambui Karanja, Philomena Njeri Karanja, Grace Wairimu Karanja and Florence Njoki Njagi.

2. The widow and son petitioned the court for the grant of letters of administration intestate. The grant was issued jointly to them, and subsequently confirmed. They indicated the estate to comprise:-

- a) Loc. 16/Ndunyu Chege/694;
- b) Loc. 16/Ndunyu Chege/272;
- c) Loc. 16/Ndunyu Chege/645;
- d) Loc. 16/Mbugiti/218; and
- e) Loc. 1/Kiriaini/233.

During confirmation the entire estate went to the two administrators.

3. The widow died on 25th September 1995. An application to revoke the grant on the basis that the daughters were not involved in the petition and distribution of the estate was made, following which the grant was revoked and certificate of confirmation set aside. A fresh grant was issued to Philomena Njeri Karanja and Grace Wairimu Karanja (the applicants). They filed the present application dated 5th March 2019 seeking to have the grant confirmed. In the application they proposed that the two share Loc. 16/Ndunyu Chege/694; Philomena Njeri Karanja gets Loc. 16/Ndunyu Chege/272; the two share Loc. 16/Ndunyu Chege/233; Thiga Karanja gets Loc. 16/Ndunyu Chege/645; and Loc. 16/Mbugiti/218 goes to Kenya Tea Developments Authority. No provision was made to the 1st respondent, and that was why she opposed the application. Florence Njoki Njagi had supported the application and sharing. According to the proposal by Elizabeth Wambui Karanja, her sisters Philomena Njeri Karanja, Grace Wairimu Karanja and Florence Njoki Njagi should each get 13.4 acres from Loc. 16/Ndunyu Chege/694; Thiga Karanja should get 4 acres from Loc. 16/Ndunyu Chege/645; she should get 6 acres comprised in Loc. 16/Kiriaini/233 and also the 4.7 acres in Loc. 16/Ndunyu Chege 272; and that Loc. 16/Mbugiti/218 should go to Kenya Tea Development Authority. It is 23 acres. The 1st respondent made reference to other properties in her affidavit, but omitted them in the schedule and proposed sharing.

4. There is no dispute that following the death of the deceased's widow, Thiga Karanja forged court documents and used them to get the entire estate transferred to him. When this was discovered, he was arrested, successfully prosecuted in Chief Magistrate's Court at Nairobi in **Criminal Case No. 1868 of 2005** and sentenced to jail. He had gone to the extent of subdividing Loc. 16/Ndunyu Chege/694.

5. I consider that either side agrees that Loc. 16/Mbugiti/218 should go to Kenya Tea Development Authority. The parcel was unilaterally sold to the Company by the widow of the deceased and Thiga Karanja both of whom pocketed the proceeds. They were paid Kshs.1,429,600/= in 1988. The parcel will go the Company.

6. The five children are each entitled to equal benefit from the estate of their late father. There would be no justifiable reason, legal or otherwise, why any of them should benefit more than the others. However, it is now evident that Thiga Karanja and his late mother sold Loc.16/Mbugiti/218 to Kenya Tea Development Authority. They did not share the proceeds with the rest of the family. This benefit to him will be taken into consideration when sharing the estate of the deceased.

7. That being the case, I order Philomena Njeri Karanja, Grace Wairimu Karanja, Elizabeth Wambui Karanja and Florence Njoki Njagi to share equally Loc. 16/Ndunyu Chege/694 which measures about 40.41 acres. The four shall also equally share Loc. 16/Kiriani/233 and Loc. 16/Ndunyu Chege/272. Thiga Karanja shall get Loc. 16/Ndungu Chege/645. I have taken into consideration that Thiga Karanja sought to defraud his sisters of the entire estate.

8. The grant issued to Philomena Njeri Karanja and Grace Wairimu Karanja on 5th March 2018 shall be confirmed in those terms.

DATED and DELIVERED AT NAIROBI THIS 26TH DAY OF OCTOBER 2021.

A.O. MUCHELULE

JUDGE