



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 508 OF 2009

IN THE MATTER OF THE ESTATE OF LATE EDWARD M.

M'ARIMBA M'INOTI alias ARIMBA INOTI - (DECEASED)

CATHERINE KAIMURI KARIMBA.....PETITIONER

VERSUS

BEATRICE MUCECE KARIMBA.....OBJECTOR

RULING

1. Application dated 20.8.2009 was filed by Rosemary Gacheri seeking that the court issues a temporary orders of inhibition against land No Abogeta L. Kithangari/199; L.R Abogeta/L.Kiungone/514 and 63 No. 15A – Kanyakine Market, L. R. Abogeta/L. Kithangari/221, LR Abogeta/Nkachie/666 and Ngobit/Supuko Block 5/86.

2. The Applicant also sought that grant of representation made intestate to Catherine Kaimuri Karumba and Beatrice Mucece be revoked. She also sought for costs of the application. The application was supported with grounds on the face of application and supporting affidavit of Rosemary Gacheri. The applicant averred she had been defrauded of her rightful shares out of the estate of her father. She said the Petitioners altered what had been agreed upon and had transferred the estate to her name without disclosing existence of the property to other beneficiaries. She said that the deceased assets had not been disclosed fully.

3. In the supporting affidavit the Application said that when the Petitioners failed to update her on progress of the cause she went to the Registry and discovered the grant had already been confirmed and the agreed mode of distribution altered to her disadvantage. She said she didn't sign consent to petition and distribution and the Petitioners should be cited for perjury and forgery.

4. Applicant therefore sought that grant be revoked to enable fair distribution to be done. The application for revocation was allowed by consent of the advocates for the parties and direction were taken that fresh proposals for modes of distribution be filed by parties. Parties filed their respective modes of distribution and the court is to consider whether any of the 3 modes filed is fair and just in the circumstances.

5. On 2.8.2018 the estate of the deceased determined due for distribution were:-

i. LR Abogeta/L.Kithangari/221 which was shared among the 4 houses of the wives of the deceased and their children in equal shares and the Applicant herein is shown to be among the children in the 2nd house.

ii. Abogeta/L. Kithangari/199 was distributed to

- Muthuri Boniface
- Markdonald Mutwiri
- Risper Kagwiria In equal shares.

(This are from 4th wives' house)

iii. Abogeta/L.Kiungone/514/63 – ½ was given to Ashford Muthomi to hold in trust for himself and in trust for his siblings rosemary Gacheru, Nancy Kawira and Alex Murithi in equal shares. 2nd half to Beatrice Mucece for herself and her children in equal shares.

iv. Plot No. 15A Kanyakine market :-

- Catherine Kaimuri
- Mutwiri Boniface
- Douglas KaimbatO to share equally

v. LR. Abogeta/Nkachie/666 – ½ was to go to Muthuri.

- Boniface Mwenda
- Mackdonald Mutwiri
- Risper Kagwiria to share equally
- ½ to go to Morris Mutembei

· Doreen Kaliria.

vi. Ngobit/Supuko Block 5/86 was found to have been registered in the name of Beatrice Mucece and nothing showed it was gift inter vivos from deceased.

vii. LR Abogeta/L. Kithangari/263 – also was in the name of Beatrice Mucece and nothing showed it was acquired using deceased persons funds.

viii. Having given due consideration to the different modes of distribution proposed by the parties herein and delivering Ruling dated 2.8.2018 this court finds that there is nothing to relook in the application by Rosemary Gacheri except for the asset that had not been brought to the attention of the court that is:-

- a) Meru Ranching Co-operative shares.- should go to the nominee. In absence of nominee to the widows equally. Where widow is dead surviving children in equal shares.
- b) Gema Holdings Ltd shares should go to the nominee. In absence of nominee to the widows equally. Where widow is dead surviving children in equal shares.
- c) Abogeta Co-operative Society shares – should go to the nominee. In absence of nominee to the widows equally. Where widow is dead surviving children in equal shares.
- d) KCB shares – To Nominees and where none to the widows equal shares or their surviving children in equal shares.
- e) Meru Central Farmers Co-Operative shares – To Nominees and where none to the widows equal shares or their surviving children in equal shares.
- f) KCB A/C No. 181180345 proceeds. The proceeds of the account should go to the 4 widows and where any widow is ` deceased such deceased widows shares should be shared equally by her children or survivors.

HON A. ONG'INJO

JUDGE

RULING DELIVERED, DATED AND SIGNED IN COURT ON 12TH DAY OF MARCH 2020.

In the presence of :

C/A: Kinoti :-

Mr Kimathi holding brief for Ayub Anampiu for Petitioner/Respondent.

M/s Meenye & Kirima Advocate for applicant.

Basilio gichanga Advocate for Objector – N/A

HON A. ONG'INJO

JUDGE

Court:

Copies of ruling to be supplied to parties upon payment of copying charges.

HON A. ONG'INJO

JUDGE