



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BUSIA**

**PROBATE & ADMINISTRATION NO.1 OF 2014**

**IN THE MATTER OF THE ESTATE OF:**

**CHARLES ETYANG ICHANI .....DECEASED**

**BETWEEN**

**RICHARD RICH ICHANI.....PETITIONER/ RESPONDENT**

**AND**

**REDEMPTA IMUJARO .....OBJECTOR/ APPLICANT**

**RULING**

1. There are two competing proposals for distribution of the estate of Charles Etyang Ichani, the deceased herein which the parties are urging to be confirmed.
2. Richard Rich Ichani is the petitioner herein. His proposal though appearing reasonable, it has several land parcels whose acreage has not been indicated. It also emerged during the hearing that the same has not been determined.
3. The proposal of Redempta Imujaro the objector herein is on the face of it outrageous. She is seeking to be given the entire land parcel number SOUTH TESO/APOKOR/1210 measuring 6.63 hectares (16.38 acres). She also proposes to be given land parcel number SOUTH TESO/APOKOR/680 measuring 0.05 hectares (0.12 acres).
4. In view of the uncompromising stance by the parties, I am inclined to order that the distribution of the estate be in accordance with the provisions of the law of Succession Act. This will be after the ascertainment of the area of some of the properties and valuation of the commercial properties.
5. The deceased was polygamous and the law applicable is under section 40 of the Law of Succession Act which provides:
  - (1) **Where an intestate has married more than once under any system of law permitting polygamy, his personal and household effects and the residue of the net intestate estate shall, in the first instance, be divided among the houses according to the number of children in each house, but also adding any wife surviving him as an additional unit to the number of children.**
  - (2) **The distribution of the personal and household effects and the residue of the net intestate estate within each house shall then be in accordance with the rules set out in sections 35 to 38.**
6. The administrator herein is given six months within which to cause the commercial properties to be valued and file a proposed distribution in accordance with section 40 of the Law of Succession Act. Failure to do so, the grant herein shall automatically be revoked unless he has sought from the court extension of time. Each party will bear own costs.

**DELIVERED and SIGNED at BUSIA this 11<sup>th</sup> day of March, 2020**

**KIARIE WAWERU KIARIE**

**JUDGE**