



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**SUCCESSION CAUSE NO. 91 OF 2011**

**IN THE MATTER OF ESTATE OF SIMON ANAMPIU M'MURUGU (DECEASED)**

**RAEL KAARI M'ANAMPIU.....PETITIONERS**

**ELIAS GITONGA M'ANAMPIU**

**VERSUS**

**STANLEY MATHIU ANAMPIU**

**BENJAMIN KANYINYIU ANAMPIU.....PROTESTERS**

**PETER GITONGA M'ANAMPIU**

**RULING**

Application dated 1<sup>st</sup> August 2018 was brought by the protesters herein seeking that Letters of Administration issued to Elias Gitonga M'Anampiu and Florence Mukethi be rectified as follows:-

- a) That LR No. Nyaki/Munithu/290 be redistributed equally among all heirs to the estate of the deceased as captured in confirmed grant.
- b) That LR Nyaki/Kithoka – Mwanika/26 be distributed equally amongst heirs to the estate of the deceased as listed in confirmed grant.

Directions were taken that application be canvassed by way of written submissions. However as at 18<sup>th</sup> February 2019 no submissions had been filed. The court therefore reverted to the affidavits sworn by applicant Peter Mutayia in support of the application on 1.8.2018 and Benjamin Kanyinyiu sworn on 29<sup>th</sup> October 2018 to determine the application.

This court has considered the affidavits sworn by the applicant and Benjamin Anampiu as well as the reason as to why distribution was done in the manner that it appears in the certificate of confirmation and it is the view of this court that that determination was reached after the court established that the protesters

were distributing the estate to their cousins and left out the daughters of the deceased. It was established as shown in the ruling that LR. No. Nyaki/Kithoka/26 was being occupied and utilised by Cecilia Mukuba's mother and Benjamin Kanyinyiu confirmed that Rose Kananu also stayed on LR. Kithoka/26.

They confirmed that Stanley's son, Joshua Muriki was the other person who occupied a portion of LR Kithoka/26. The court therefore said that that portion occupied by Joshua should be identified so it is transmitted to him.

The issue of deceased persons wishes that his children share the estate equally never arose at the hearing of the protest and in fact the protesters proposal left out the deceased persons daughters and that claim can only be treated as an afterthought. The applicants seem to feel that they are more entitled than the deceased persons daughters.

I find no merit in the application dated 1<sup>st</sup> August 2018 and the same is dismissed with no orders as to costs.

**HON. A.ONG'INJO**

**JUDGE**

**RULING DELIVERED, DATED AND SIGNED IN COURT ON 26<sup>TH</sup> FEBRUARY 2019.**

**In the presence of:**

C/A: KINOTI

Petitioner:- Mr Ringera Advocate for 1<sup>st</sup> Petitioner N/A

2<sup>nd</sup> Petitioner –Present in person

Protester:- Mr Kithinji holding brief for Munene for applicants.

**Court:**

Copies of ruling to be supplied upon payment of copying charges

**HON. A.ONG'INJO**

**JUDGE**