



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NUMBER 38 OF 1995

IN THE MATTER OF THE ESTATE OF THE LATE KIMOTHO KAHIGA (DECEASED)

RULING

1. Bernard Nyaga Kimotho has petitioned this court for a special grant of letters of administration in respect of the estate of Kimotho Kahiga Kararu. The grant sought is limited to effecting vesting of the estate properties to the beneficiaries in strict compliance with the court judgment (*Musinga J*) which judgment was confirmed by the **Court of Appeal** in **Civil Appeal Number 306 of 2006**.

2. The said vesting is as per the schedule hereunder;

List of properties Beneficiary Share

a) Deceased $\frac{1}{4}$ share of plot No. 22 Bernard Nyaga Kimotho $\frac{1}{4}$ share

Kahuro Market

b) Title No. Loc. 8/Gatuya/Kariara T 176 Joseph Mucheru son of the 2nd wife whole

c) Title No. L.R. Loc 8/Gatuya/218 Bernard Nyaga son of the 1st wife Tenants in and Joseph Mucheru son of the common in equal shares

d) Lembus/Muberes Block 1/103 Joshua Kanyingi son of the 2nd wife whole

List of properties Beneficiary Share

e) Bahati/Kabatini Block 1/77 Children of the late Bernard Nyaga whole son of the 2nd wife

f) Nyandarua/Upper Gilgil/32 the sons of the 1st wife Tenants in common in equal shares

g) Nakuru Municipality/Langalang/23 To children of the 2nd wife namely Tenants in

Veronica Mukami common in

Veronica Waithera equal shares

Hannah Nyambura

Ruth Wanjiku

Rose Njeri

Mugo and Kamau

3. The petitioner is the eldest surviving son of Kimotho Kahiga Kararu.

4. **Rule 12** of the **Probate and Administration Rules** provides;

“r12. An application for a grant of representation to be limited in any of the several respects described in the Fifth Schedule to the Act shall be by petition in the appropriate Form and shall be supported by such evidence by affidavit in Form 19 as is required by these Rules including such evidence as is sufficient to establish the existence of the facts and circumstances relative to the particular respect in which the grant is to be limited.”

5. The petitioner has demonstrated by way of sufficient evidence that the administrators of the estate of Kimotho Kahiga Kararu are deceased. There is a final judgment in the matter distributing the estate to the rightful beneficiaries.

6. The only step remaining in the administration of the estate is to have the various properties vest in the names of the respective beneficiaries as per the orders of court.

7. The order sought is thus necessary and merited to facilitate completion of the administration of the estate.

8. I allow the petition and make the following orders;

1. A special grant of letters of administration of the estate of Kamotho Kahiga Kararu be and is hereby issued to Bernard Nyaga Kimotho Limited to effecting vesting of the estate properties to the beneficiaries in strict compliance with the judgment of *Musinga J* which judgment was confirmed by the Court of Appeal.

2. Bernard Nyaga Kimotho is to within 6 months of this order complete the administration of the estate in respect of all matters other than continuing trusts, and to produce to the Court a full and accurate account of the completed administration.

3. The costs of the petition in the cause.

Dated and Signed at Nakuru this 26th day of February, 2019.

A. K. NDUNG’U

JUDGE