



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

SUCCESSION CAUSE NO. 533 OF 2012

IN THE MATTER OF ESTATE OF PETER MUTWIRI MUGAMBI (DECEASED)

M'MUGAMBI MARETE.....PETITIONER/PROTESTOR

-V-

JULIET MIRIKO MURITHI....PETITIONER/RESPONDENT

J U D G M E N T

1. The late **Peter Mutwiri Mugambi (“the deceased”)** died on 1st July, 2012. He was survived by **Juliet Miriko (widow), SM (son) and WK (daughter)**. On 28th August, 2012, **Juliet Miriko (“the petitioner”)** and **M'Mugambi M'Marete (“the protestor”)**, as widow and father of the deceased, respectively petitioned for letters of administration intestate.
2. By Summons for Confirmation of grant dated 14th November, 2014 the petitioner made proposals on how to distribute the estate. On 23rd May, 2018, the father protested against the proposed distribution on the grounds that; the petitioner was now married elsewhere, that other properties had been left out and that he was only concerned with the welfare of the children of the deceased. He further alleged that **LR NO. Nyaki/ Mulathankari/1161** was owned equally between the deceased and his daughter, one **Susan Karimi**, and therefore ought to have been shared equally.
3. In this regard, the protestor set out all he alleged to be the property forming the estate and gave his own proposed mode of distribution.
4. I have carefully considered the proposed mode of distribution by the protestor. The contents of the protest were never denied or rebutted by the petitioner. The proposed mode of distribution is in conformity with the provisions of **Section 35 of the Law of Succession Act CAP 160 of the Laws of Kenya** as the protestor proposes to distribute the estate equally among the children of the deceased. As he rightly contended, he has not even proposed to take a single share of the estate of the deceased. The protest has therefore been brought in good faith.
5. The only aspect that the court does not agree with the protestor is the allegation that **L.R. No. Nyaki/Mulathankari/1161** was held by the deceased jointly with **Susan Karimi**. The search certificate on record dated 30/12/2012 does not reflect that fact. The property is registered in the name of the deceased only.
6. In arriving at the distribution, I have considered the fact that the children are of very young age, that the widow is now said to have been married elsewhere, that she requires some provision to be able to fend for herself and that there is always a likelihood that the children may be disregarded in the new relationship in which the widow finds herself in. The children must therefore be seriously protected.
7. That being the case, I allow the protest and the estate of the deceased is to be distributed as follows:-

a) LR NO. NYAKI/MULANTANKARI/1161

SM

WK with Juliet Miriko and M'Mugambi M'Marete holding the same in trust

b) LR NO NKUENE/TAITA LAND

SM

WK - Jointly Juliet Kiriko and M'Mugambi M'Marete holding the same in trust.

c) MERU MUNICIPALITY BLOCK/T/195

SM

WK

Juliet Miriko - jointly with Juliet Miriko & M'Mugambi M'Marete holding in trust for the minors

d) LR NO. NKUENE/URUKU/652

Juliet Miriko - Whole

e) EQUITY BANK SHARES

SM

WK - Equally with Juliet Miriko & M'Mugambi M'Marete holding in trust

f) MUMIAS SUGAR CO. SHARES

Juliet Kiriko

g) MOTOR VEHICLE REGISTRATION N0. KBG 232 E ISUZU LORRY

Juliet Miriko

h) MOTOR VEHICLE REGISTRATION NO. KAT 516S ISUZU LORRY

SM

WK

Juliet Miriko - jointly

i) MOTOR VEHICLE REGISTRATION NO. KAX 206 W TOYOTA G TOURING

SM

WK

Juliet Miriko - jointly

j) MOTOR VEHICLE REGISTRATION NO. KBG 471B TOYOTA VITZ

Juliet Miriko

k) Family Bank, Meru Branch - AC. No. [particulars withheld]

KCB, Meru Branch - AC No. [xxxx]

Equity Bank, Nkubu Branch - AC No. [xxxx]

CO-OP Bank, Nkubu Branch - AC No. [xxxx]

Times Sacco, Nkubu Branch - AC No. [xxxx]

Juliet Miriko

SM

WK - Equally with the shares of the minor being held in trust by Juliet Miriko and M'Mugambi M'Marete.

8) This being a succession matter there will be no order as to costs.

DATED and DELIVERED at Meru this 21st day of February, 2019.

A. MABEYA

JUDGE