

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUSIA

PROBATE & ADMINISTRATION NO. 61 OF 2012

IN THE ESTATE OF: MUKEMO MURERE NDEGE.....DECEASED

BETWEEN

ERNEST OCHIENG MURERE.....PETITIONER/ RESPONDENT

AND

JOHN OUMA EKESA.....OBJECTOR

MOSES MITIGOA OBUSUBIRI.....BENEFICIARY /APPLICANT

RULING

1. **John Ouma Ekesa** the objector herein, is objecting to the distribution of the deceased's property on the basis of the following grounds.
 - a) That the deceased provided for his sons during his lifetime.
 - b) That the only asset is available for distribution is **BUKHAYO/KISOKO/5187**.
2. Ernest Ochieng Murere, the petitioner herein on the other hand argues that land parcel Nos. **BUKHAYO/KISOKO/6802 & BUKHAYO/KISOKO/6803** are the only assets available for distribution.
3. The beneficiary has contended that he was issued with a title deed in respect of **BUKHAYO/KISOKO/5188** but the same was found to non-existence.
4. Both the objector and the petitioner agree that their father had distributed his property during his lifetime except for one property where he was residing. There is no dispute that **Moses Mitigoa Obusubiri** had purchased land during the lifetime of the deceased herein. What is in dispute is whether the purchaser has a claim from the estate.
5. My perusal of the documents filed by the parties herein has confirmed that the copy of register in respect of parcel number 6803 has restrictions due to duplication of numbers 5185-5188. The copy of map attached by **Moses Mitigoa Obusubiri** issued on 2nd November 2018, confirm that the said parcel of land that is **BUKHAYO/KISOKO/5188** is not reflected therein.
6. I therefore find that the objection is unmerited. I dismiss it with costs. Consequently, the grant herein is confirmed.

DELIVERED and SIGNED at BUSIA this 25th day of March, 2019

KIARIE WAWERU KIARIE

JUDGE