



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 353 OF 2014

IN THE MATTER OF THE ESTATE OF M'TURUCHIU M'AMBUTU ALIAS TUARUCHIU AMBUTU (DECEASED)

MARK MUTUARUCHIU MURANGURI.....1ST PETITIONER

CHARLES KIREA AMBUTU.....2ND PETITIONER

VERSUS

DAVID MWITI IRANDU.....1ST PROTESTOR

WILLIAM GUANTAI GITUMA.....2ND PROTESTOR

J U D G M E N T

1. The deceased, **M'Turuchiu M'Ambutu alias Tuaruchiu Ambutu ("the deceased")** died on 27th March, 1993. As per the letter of introduction by the area Chief, Nduruma Location, the deceased left behind a spouse and 11 children.
2. On 5th August, 2014 the petitioners applied for letters of administration listing the beneficiaries as per the letter of introduction. He also listed the assets of the deceased as; **Abothuguchi/U-Kaongo/212, Abothuguchi/U-Kaongo/898, Abothuguchi/U-Kaongo/1049 and Abothuguchi/L-Kaongo/ 501**. Letters of Administration were issued to the petitioners on 23rd October, 2014. They subsequently filed summons for confirmation of grant on 13th April, 2016.
3. The same was protested by the **David Mwiti Irandu** and **William Guantai Gituma** through an affidavit dated 16th January, 2017. They averred that they purchased **Abothuguchi/U-Kaongo/212** from **Jeremano Gatobu M'Ituruchio**. They annexed a Sale Agreement to that effect.
4. On 22nd June, 2015, **Alice Ncene M'Twaruchiu** and **Terethina Gaceke Mutwiri** renounced their interest and rights to the estate. On 17th October 2018, this court found that no steps had been taken by the administrators of the estate. It thereby revoked the grant issued on 23rd October 2014 and granted leave to **Paulina Kiaro M'Ituarichu** to apply for confirmation of grant within 30 days.
5. **Paulina Kiaro M'Ituarichu** filed summons for confirmation of grant on 12th November 2018. The court notes that in the Summons for confirmation of grant, **Ruseta Mathio** and **Anjelina Maiga** have not been provided for. However, the summons have not been objected to. **Ruseta Mathio** and **Anjelina Maiga** have full knowledge of these proceedings having signed the consent to making of a grant of Administration.
6. From the Summons, the administrator has sought to distribute **Abothuguchi/U-Kaongo/212** to **Jeremano Gitobu** as opposed to the protestors herein. The agreement between **Jeremano Gitobu** and the protestors was entered into on 14th June 2010 after the demise of the deceased. It would therefore seem that the act was a clear act of intermeddling with the estate of the deceased as per **section 45 of the Law of Succession Act**.
7. I'm therefore inclined to distribute the estate of the deceased in line with paragraph 5 of the Summons for confirmation of grant dated 12th November 2018 as follows:-

a) **Land Reg. No. Abothuguchi/U-Kaongo/1049**

Charles Kirea Joseph

Godfrey Kithinji M'itwaruchiu

Jeremano Gatobu M'itwaruchiu

Stanley Mwirigi Tuaruchiu

Reuben Muthuri Tuaruchiu

Mark Mutuaruchiu Murangiri

b) Land Reg. No. Abothuguchi/U-Kaongo/898

Stanley Mwirigi Tuaruchiu

Reuben Muthuri Tuaruchiu

Mark Mutuaruchiu Murangiri

Paulina Kiaro M'ituaruchiu

c) Land Reg. No. Abothuguchi/U-Kaongo/212

Jeremano Gatobu M'itwaruchiu

d) Land REG. No. Abothuguchi/L-Kaongo/501

Charles Kirea Joseph

Godfrey Kithinji M'itwaruchiu

Jeremano Gatobu M'itwaruchiu

Stanley Mwirigi Tuaruchiu

Reuben Muthuri Tuaruchiu

Mark Mutuaruchiu Murangiri

DATED and DELIVERED at Meru this 25th day of June, 2019

A. MABEYA

JUDGE