



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI**

**(FAMILY DIVISION)**

**SUCCESSION CAUSE NO 748 OF 2015**

**IN THE MATTER OF THE ESTATE OF KAMAU MWENDA**

**Alias KAMAU MWENDA MUGEKENYI (DECEASED)**

**ANNIE GATHONI KAMAU.....APPLICANT**

**R U L I N G**

1. The deceased herein died on the 23<sup>rd</sup> of January 2004. The Grant of Letters of Administration applied for on the 27<sup>th</sup> of March 2015 with the applicant consenting and signing as one of the proposed administrators.
2. Though the Applicant did not sign the consent to the mode of distribution at the point of confirmation of the grant, she was represented by counsel who confirmed that she did not oppose confirmation of the grant based on proposed distribution.
3. The grant was confirmed and issued on 6<sup>th</sup> of December 2016 where all 9 beneficiaries including the Applicant are to share the only asset of the Estate equally.
4. From the record the distribution has stalled as the Applicant has failed to cooperate to allow distribution as she is one of the administrators.
5. In an application dated 3<sup>rd</sup> October 2018 the Applicant sought to have the confirmation reviewed to allow her file a protest to the mode of distribution on grounds that she is the first born child of the deceased, is unmarried, had taken care of her deceased mother, had assisted educate her sisters and is therefore entitled to a larger share of the estate.
6. The application is objected to by way of a replying affidavit where the Applicant's assertions are challenged and her proposition that she is entitled to a larger share declined.
7. Having considered the issues raised in the application I find the mode of distribution in the confirmed grant most reasonable as the estate was equally distributed to the heirs.
8. Secondly the assertion of a higher entitlement has no basis in law, Indeed, no proof of the alleged reasons for a larger share were placed before the court.
9. Court do not act in vain, so that even if the order confirming the grant was set aside and the protest allowed based on grounds found in the application the court will no doubt arrive at the same conclusion.
10. I therefore find no basis upon which to allow the application it is Dismissed with costs.

**Dated and Delivered in Nairobi on this 26<sup>th</sup> day of September, 2019**

.....

**ALI-ARONI**

**JUDGE**