



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KERICHO

SUCCESSION CAUSE NO.386 OF 2015

IN THE MATTER OF THE ESTATE OF KIPLANGAT ARAP MAINA (DECEASED)

PHILIP KIMUTAI LANGAT.....1ST PETITIONER

VERSUS

RUTH CHEPKOECH.....OBJECTOR

RULING

1. This is an application for confirmation of Grant of Letters of Administration dated 12th July 2018 filed by M/s Tengekyon and Koske Co. Advocates.
2. The only issue for the decision of this court is the mode of distribution of the estate, that is one piece of land Kericho/Sosiot/1656.
3. Philip Kimutai Langat one of the two administrators proposed that disbrution be equally as follows- Ruth Chepkoech, Alice Kipkemoi, Philip Kimutai Langat, Irene Chepkorir Langat, Evaline Chelangat and Kenneth Kipkirui langat each to get 0.123 ha.
4. The other administrator Ruth Chepkoech however proposed that each of the two houses gets equal share of 0.143 Ha and distribution to include two grandchildren in the 1st house to be as follows:-

1st house – 0.43 Ha.

Ruth Chepkoech – 0.143 Ha.

Vincent Korir - 0.143 Ha.

Judith Cherotich -0.143 Ha.

2nd House - 0.43 Ha.

Alice Chemutai Maina – 0.072 Ha.

Josephat Kipkemi 0.072 Ha.

Philip Kimutai Langat 0.072 Ha.

Irine chepkorir Langat 0.072 Ha.

Evaline chelangat 0.072 Ha.

Kenneth Kipkirui Langat 0.072 Ha.

5. From the documents filed, it is clear that both widows of the 1st house and 2nd house survived the deceased, but the widow in the 1st house died thereafter. In that house the survivors were the widow and a daughter Ruth Chepkemai (the administrator) who is the objector. Vincent Korir and Judith Cherotich are a grandson and a granddaughter. It has not been stated that their parents were alive at the time the deceased died.

6. In terms of section 40 of the Law of Succession Act (Cap.160) unless the parents of these two grandson children were alive, and died thereafter, these grand children cannot inherit from the estate of their grandfather.

7. That said, the two widows survived the deceased. Each was thus entitled to inherit, alongside their children. The estate will thus be distributed equally to all the listed two surviving widows and their children. The child of the 1st house will decide how to inherit the share of her deceased mother (widow).

Dated and delivered at Kericho this 26th September 2019.

GEORGE DULU

JUDGE