



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

PROBATE AND ADMINISTRATION DIVISION

SUCCESSION CAUSE NO. 2119 OF 2010

IN THE MATTER OF THE ESTATE OF MANASSEH MASEK JOSIAH KISOSO (DECEASED)

BETTY SATION KISOSO.....APPLICANT

VERSUS

PRISCILLA JERUTO KISOSO.....RESPONDENT

J U D G M E N T

1. Before the Court is an Application for Confirmation of Grant of Letters of Administration. The Application is brought by Summons filed on 6th September, 2017. That was after an application for revocation did not succeed. The Applicant was the Objector there. The course of the hearing the Applicant-Administrator informed the Court that she was already in the process of making this application. In those proceedings the Objector complained the process was taking too long. Hon Achode J had ruled on that objection on 1st April, 2016.

2. Both the Widows of the Deceased, Lucy Waithera Kisoso and Priscilla Jeruto Kisoso were appointed administrators on 7th April, 2011. On 5th July, 2012 Lucy Waithera passed away leaving the Administrator Priscilla as Sole Administrator. The family did not appoint anyone to replace Lucy & Priscilla continued on her own.

3. The confirmation is being opposed by Betty Sation Kisoso who is the daughter of Lucy Waithera. Previously she had filed an Application for revocation and for annulment of the Letters of Administration. She was heard by a different Judge of this Division and her Application she made various allegations that were held by the Trial Court to be impounded. She now says an Oath that she was dissatisfied with the way the Estate was managed and because she was the only Objector, the Court declined to allow her application. The Ruling demonstrates that was only one of the reasons the Learned Judge considered.

4. The Objector now objects to the distribution as follows:

1. Firstly, she says her mother was the first wife and therefore she belongs to the first home.

2. At Paragraph 10 she says that her mother was in constant arguments with Priscilla who collected the rents and declined to share those sums with her side of the family. She Exhibits a collection of documents that demonstrate a dispute for fact those documents all predate the Grant of Letters of Administration are therefore one of limited, if any value on how matters proceed after issue. What is clear is that Priscilla suggested they both be administrations and

that is who petitioned.

3. In relation to Item No. 27 she says that the developments on that property were built with financial assistance of her mother. She now complains that Priscilla has been collecting rent but has not accounted for the same and she now seeks to keep the whole plot “to the exclusion of” her side of the family. She exhibits photos at page 788 of her Exhibit.

4. In relation to Item No. 2; she complains that it is being distributed to the persons who provided the funds to repay the loan. She says she wished to do so but the Administrator locked her out. She says she wishes to be included in that property. In fact the beneficiaries named are her direct consanguine siblings they do not feel that either therefore she has been disadvantage or excluded.

5. She says in relation be the bail accounts and shares at last 50% shared go to her family.

6. She says the properties allocated to her side of the family are less valuable than those allocated to Priscilla family. She provides no definitive valuations to support that allegation. She wants the Estate to now be valued in its entirety so that she can be serve her family has not been shortchanged.

5. The Objector is also seeking an account of all income received by the Estate since 2009. That is date of death.

The Schedule of Distribution shows that the Objector has been allocated contain properties. As she has not referred to any of those, it is fair to assume that she wishes to keep the benefit of those **belt** wants additional shows in others.

6. The Direct siblings of the Objector consent to the confirmation of the Distribution as set out in the Schedule. In relation to an account a copy of Bank Statement from 2005 the closing balance is exhibited. That shows the Deceased was indebted to Daima Bank. At Paragraph 9 of the Supporting Affidavit explains the position. There was an urgent need to stop one of the properties being auctioned and two beneficiaries were able to **save** the day. Their contribution is therefore recognized. Their share reflects the fact of their contribution and that promises made from a distant place were not substantiated and therefore carried no value.

7. The Administrator explains that at a start they divided the assets between the two houses. That is a generally well recognized mode of distribution. There is nothing to show it was unfair *per se*. The Objector says there is unfairness on value, but she has produced no evidence whatsoever to substantiate that allegation. The Administrator then explains each house made division between themselves. There is no evidence to challenge that.

8. At the hearing of the matter the Objector did not attend but was represented. The Beneficiaries who did attend and address the Court in particular Edward and Alex told the Court they were fed up with the delay and want the matter heard and decided.

9. Having considered the Evidence before the Court and the age of the parties the Court considers that due to the age of this case the parties are entitled to a final decision and finality to get on with their levies.

10. In relation to the Objection, the Objector has;

(a) Failed to substantiate her case and

(b) Failed to enlist the support of any of her direct siblings to confirm that they are disadvantaged as a family only Douglas has neither signed nor appeared.

11. For those reasons the Objection is dismissed with costs. The Grant is confirmed. The Distribution is

confirmed.

Order accordingly,

FARAH S.M. AMIN

JUDGE

DATED, DELIVERED AND SIGNED at Nairobi on 25th January 2018.

In the Presence of:

Applicant/Objector: Mr Gathi

Respondent/Administrators: Mr Muiti

Addendum

Leave to appeal was granted to the objector. Time to begin running when the file is received in the Registry.