



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAJIADO

SUCCESSION CAUSE NO. 45 OF 2016

IN THE MATTER OF THE ESTATE OF TOISON LEINA MURARE ALIAS TOISON LEINA MUKARE (DECEASED)

RULING

The deceased Toison Leina Murare died intestate on 3/9/2015 and was survived with three wives and twelve children as per the Chief's letter dated 29/7/2016.

On application to this court Solomon Toison, James Toison and Emmanuel Toison were issued with Grant of Letters of Administration as administrators of the Estate dated 27/6/2017. The deceased was the registered proprietor of LR. No. Kajiado/Kipeto/5026. Consequently, the administrators sought confirmation of grant vide summons dated 2/10/2017.

The summons for confirmation is supported by joint affidavit sworn by Solomon Toison, James Toison and Emmanuel Toison. From the record six months have lapsed since the initial grant of letters of administration, section 71 of the Law of succession provides for the criteria of confirmation of grant after the expiry of six months.

I note that the beneficiaries have filed the necessary consents on the mode of distribution filed in court on 14/2/2018. According to the consent and affidavit in support the family has agreed to distribute the Estate as follows:

1. Kelvin Tom Mogeni LR No. KJD/Kipeto/5026 - 15 acres
2. Silanto Ene Toison - 17.86 acres
3. Saeiken Mukare (widow) Kajiado/Kipeto/5026 – 17.86 acres
4. Kamurrar Mkare (widow) LR. KJD/Kipeto/5026 – 17.86 acres
5. Emmanuel Toison LR. KJD/Kipeto/5026 – 17.86 acres
6. Noah Toison LR. KJD/Kipeto/5026 – 17.86 acres
7. Mosoito Toison LR. KJD/Kipeto/5026 – 17.86 acres – minor 12 years to be held in trust by Sariken Mukare until age of majority.
8. Nkamunu Toison LR. KJD/Kipeto/5026 – 17.86 – minor 9 years to be held in trust by Silanto Mukare until the age of majority
9. Solomon Toison LR. KJD/Kipeto/5026 – 17.86 acres
10. Ntei Toison LR. /KJD/Kipeto/5026 – 17.86 acres
11. Purity Toison (child) LR. KJD/Kipeto/5026 – 17.86 acres – to be held in trust by Kamurrar Mukare until age of majority
12. Tetu Toison LR. KJD/Kipeto/5026 – 17.86 acres
13. James Toison LR. KJD/Kipeto/5026 – 17.86 acres
14. Letuya Toison LR. KJD/Kipeto/5026 – 17.86 acres
15. Kiranti Toison LR. KJD/Kipeto/5026 – 17.86 acres

16. Kishanto Toison LR. KJD/Kipeto /5026 – 17.86 acres
17. Joyce Nenkimas (married daughter) LR. KJD/Kipeto/5026 – 5 acres
18. The Dam be jointly owned by the two widows.
19. Alice Namosu (married daughters) LR. KJD/Kipeto/5026 – 5 acres

There is evidence that the petitioners obtained the necessary consents from all the dependants of the deceased. Section 40 of the Law of Succession addresses situations of polygamous family as it is the present case. Under section 35 of the Act after provision of the life interest to the spouses, the rest of the Estate should be shared equally between each of the children.

I do find the spirit under section 35, 38 and 40 on equal distribution of the Estate of the deceased has been complied with.

I thus find that the petitioners summons for confirmation of Grant has satisfied the provisions of section 71 of the law of succession cap 160. The proposals on distribution in terms of the amended consent filed in court on 14/2/2018 qualifies that provision. Consequently, I shall confirm the Grant of Letters of Administration issued on 27/6/2017 to the petitioners save that within six months a probate account be filed with the court pursuant to section 83G of the Act.

I make no orders as to costs.

Dated, delivered and signed in open court at Kajiado this 14th February, 2018.

.....

R. NYAKUNDI

JUDGE

Representation

Ms. Makori for the Petitioners – present

All Beneficiaries - Present