



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**SUCCESSION CAUSE NO. 263 OF 2007**

**IN THE MATTER OF THE ESTATE OF M'THURANIRA M'BUURI**

**MWIRIGI M'BUURI.....PETITIONER/1<sup>ST</sup> ADMINISTRATOR**

**VS**

**CATHERINE KINYA**

**THURANIRA.....1<sup>ST</sup> OBJECTOR/2<sup>ND</sup> ADMINISTRATOR**

**JOY MWENDA THURANIRA.....2<sup>ND</sup> OBJECTOR**

**RULING**

The deceased M'Thuranira M'Buuri died in 1968 according to the letter by Chief of Katheri East Location by his letter dated 23<sup>rd</sup> July 2007. He did indicate that the deceased was not married and that he was survived by his 2 brothers Mwirigi M'Buuri and Paul Kairigo M'Buuri.

The estate was made up of parcel of land No. Abothuguchi/Katheri/1410. Mwirigi M'Buuri petitioned for Letter of Administration to the estate of the deceased on 23<sup>rd</sup> July 2007 and the petition was published in Kenya Gazette of 14<sup>th</sup> September 2007 –Notice No. 8790.

The grant was not made because on 2<sup>nd</sup> October 2017 Catherine Kinya M'Thuranira objected to the grant of Letters of Administration to Mwirigi M'Buuri on the ground she was daughter of the deceased and was entitled to as have the estate of the deceased.

The petitioner urged the court to disregard the objection as objectors were strangers to the estate. He argued that the deceased was registered to hold land in question in trust for the petitioner and his brother. He said he and his brother had extensively developed the parcel of land in question which they have continued to occupy. He said that their father who survived the deceased herein didn't tell them there was anyone else who had interest in the land and that objectors objection is based on malice and should be dismissed so he can distribute the estate.

The objectors in affidavit in support of petition by way of cross application for grant said that they are daughters to the deceased and they admitted that their father was supposed to share L.R. No. Abothuguchi/Katheri/1410 with his brothers the petitioner and Paul Kairigo M'Buuri. Objection was heard by viva voce evidence and Hon J.A. Makau J made a finding on 17<sup>th</sup> March 2016 made a finding that the objectors were daughters of the deceased herein and grant of Letters of Administration made to 1<sup>st</sup> Objector and the petitioner jointly. They were granted leave to apply for confirmation either jointly or separately as the matter had been pending for quite sometimes.

The 1<sup>st</sup> Administrator filed summons for confirmation dated 11<sup>th</sup> May 2016 and proposed that L.R. No. Abothuguchi/1410 be distributed equally between him and his brother Paul Kairigo, Catherine Kinya on the other had also filed application for confirmation dated 13<sup>th</sup> June 2016 and proposed. In her affidavit sworn on 13<sup>th</sup> June 2016 that the parcel of land in question be distributed equally. The applications were canvassed by way of written submissions filed on 26<sup>th</sup> September 2017 by Mwirigi M'Buuri's counsel and on 4<sup>th</sup> May 2017 by 2<sup>nd</sup> Administrator Counsel.

In consideration of the finding by the Judge on 17<sup>th</sup> March 2016 that Objectors are daughters of the deceased, the 2 objectors are entitled to what would have been due to their father had he survived his 2 brothers and for that reason the property L.R. No. Abothuguchi/Katheri/1410 is to be divided into 3 and the 3<sup>rd</sup> portion to be shared equally between the 2 daughters of the deceased i.e

1. 0.53 acres to Mwirigi M'Buuri
2. 0.53 acres to Paul Kairigo

3. 0.53 acres to be shared equally by Catherine Kinya Thurania and Joy Mwenda Thurania.

Certificate of confirmation to issue to that effect. Each party will bear their own costs.

**HON. A.ONG'INJO**

**JUDGE**

**RULING SIGNED, DELIVERED AND DATED THIS 23<sup>RD</sup> DAY OF MAY 2018.**

**In the presence of:-**

Petitioner: Mr Mburugu Advocate for Protester

Objector:- Mr Otieno Advocate for Petitioner.

**HON. A.ONG'INJO**

**JUDGE**