



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 269 OF 2003

IN THE MATTER OF THE ESTATE OF JASON MUTUERANDU KIARIE

(DECEASED)

PHILISINA IGOKI JOHASON.....PETITIONER

VS

SAMSON KIMATHI MACHUGUMA.....OBJECTOR

SARAH MUTUERANDU.....OBJECTOR

AND

EUNICE KABITI ZECHARIA.....PROTESTOR

RULING

Grant of Letters of Administration to the estate of the late Jason Mutuerandu Kiarie was made on 14th October 2014 to Philisina Igoki Johnson. By summons for confirmation dated 27th September 2017 the said Administratrix sought to have grant confirmed after obtaining consent of beneficiaries to confirmation and distribution.

The estate was made up of 4 parcels of land namely Abogeta/U-Kiongare/2362, 2363, 2364 and 2365. The estate was shared out as per paragraph 5 of the supporting affidavit. The only dispute that arose was in regard to claim by Protester Eunice Kabiti Zacharia whose deceased husband is said to have purchased 9 acres of land from the deceased. She said that her husband bought 9 acres of land from L.R. Abogeta/Upper Kuengane/213 which was subsequently subdivided and her husband's portion given L.R. No. 2362 measuring approximately 9 acres. The Administrator and the other beneficiaries were however of the view that the deceased sold 8 acres of land to protesters husband whereas one acre was sold to one Robert Mucunku Manene.

I have considered the protest and find that claim of the of the one acre out of 9 acres allegedly bought by the protesters deceased husband and/or one Robert Mucunku Manene will require more interrogation in the Environment and Land Court to establish ownership. In the meantime this court will make an order on the undisputed 8 acres to be transmitted to the protester to hold in trust for herself and the children/beneficiaries/dependants of her deceased husband to share as shall be determined in the succession cause filed in respect of his estate.

The remainder 1 acre shall be held in trust by the Administratrix to await determination as to ownership between the protesters husband and Robert Mucunku Manene in the right forum – E&L court.

The rest of the estate shall be distributed as per paragraph 5 of the supporting affidavit of Philisina Igoki Johnson the Administratrix herein. No orders as to costs.

HON. A.ONG'INJO

JUDGE

RULING SIGNED, DELIVERED AND DATED THIS 17TH DAY OF MAY 2018.

HON. A.ONG'INJO

JUDGE

In Presence of:-

Petitioner: Present in person. M/S Kimathi Kiara Advocate for petitioners – No appearance

Objector: - Sarah – 2nd Objector – Present in person

Mrs Mutua Advocate for protester

Protester – present in person

Mrs Mutua

I request for a mention date to see if we can negotiate over the one acre of land.

Order

Mention 17.9.2018 to confirm settlement in regard to the disputed one acre.

HON. A.ONG'INJO

JUDGE