



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 65 OF 1993**

**IN THE MATTER OF ESTATE OF M'MUNYUA M'MUGUONGO alias IKUNYUA MUGUONGO (DECEASED)**

**LAWRENCE MWEBIA ..... PETITIONER**

**VS**

**M'THURANIRA MUGUONGO ..... 1<sup>ST</sup> OBJECTOR**

**RWITO M'MUGUONGO ..... 2<sup>ND</sup> OBJECTOR**

**MBAE ZAKARIA ..... 3<sup>RD</sup> OBJECTOR**

**SILAS MWITI ..... 4<sup>TH</sup> OBJECTOR**

**JUDGMENT**

The deceased herein died intestate on 31<sup>st</sup> August 1978 and according to the chiefs letter dated 2<sup>nd</sup> November 1999 he was survived by his widow Kajuju Munyua, daughters Cherina Kanugu, Zibera Mwaromo and Rose Gatwiri as well as sons Lawrence Mwebia & Mark Kinyuru.

Lawrence Mwebia got consent from his brother Mark to apply for letter of Administration to the estate. The net intestate estate is made up of L.R. Nkuene/Ngonyi/273 and Abogeta/Nkachie/33.

Objection to grant of Letters of Administration was filed by M'Thuranira M'Muguogo, Rwito M'Muguogo, Mbae Zakaria and Silas Mwititi to the effect the petitioner did not inform them when he filed petition and also failed to name as survivors of the deceased.

That the petitioner failed to disclose that L.R. No. Abogeta/Nkachie/33 in the petitioners affidavit was held in trust by the deceased for his benefit and for the benefit of the objectors.

That if the petitioner becomes the sole administrator of the estate of the deceased he shall not distribute the said estate fairly amongst the beneficiaries and he is only out to enrich himself at the expense of the objectors.

It was a ground of objection that the 1<sup>st</sup> and 2<sup>nd</sup> objectors are brothers of the deceased and the 3<sup>rd</sup> and 4<sup>th</sup> objectors are the sons of the late Zakaria M'Muguongo who is also the brother of the deceased.

This court heard the evidence of the objectors and from the said evidence they claim that the deceased held L.R. No. Abogeta/Nkachie/33 in trust for them as the eldest son of their father who died in 1945.

Although the objectors are in agreement that the deceased held L.R. No. Abogeta/Nkachie/33 in trust for them and some of the deceased persons children also confirm that the objectors and/or their children used portions of this particular parcel of land a declaration as to whether land is held in trust or not falls under the jurisdiction of Environment and Land Court. In the circumstances Lawrence Mwebia, Cherina Kanugu and Gervasio are appointed joint administrators to estate. L.R. No. Abogeta/Nkachie/33 will be held in trust in the joint names of the petitioner/Respondent and Gerasio Kithinji Thurania pending determination as to whether the same was trust land.

For Parcel of land No. Nkuene/Ngonyi/273 the same is to be distributed equally amongst the children of the deceased person herein unless otherwise agreed. Certificate of confirmation to issue. Costs of objection and entire cause to be borne by each party.

**HON. A.ONG'INJO**

**JUDGE**

**RULING SIGNED, DELIVERED AND DATED THIS 21<sup>ST</sup> DAY OF JUNE 2018.**

**IN THE PRESENCE OF:**

Petitioner:-N/A

Objectors :-Ms Nyagah Advocate for 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Objectors.

M/s Ndorongo & Co Advocate for 5<sup>th</sup> Objector

**Ms Nyagah**

**May we be supplied with certified copy of judgment.**

**Order**

Certified copy of judgment to be supplied to objectors counsel upon paying copying charges.

**HON. A.ONG'INJO**

**JUDGE**