



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 279 OF 2012

IN THE MATTER OF ESTATE OF CIOMBERIA M'ATHERU - (DECEASED)

TARSILA MUKOGAITI 1ST PETITIONER

LEONARD KAMENCHU 2ND PETITIONER

RULING

Application dated 30th March 2016 seeks that Letters of Administration made to Tarsila Mukogaita Gichuru and Leonard Kamenchu M'Atheru on 5th January 2016 be confirmed.

The application is supported by affidavit of Tarsila Mukogaita Gichuru sworn on 30th March 2016 in which it is proposed that L.R. No. Ngusishi Settlement Scheme/124 be distributed as follows:-

- i. 1 acre to Sabina Mburu
- ii. 3 acres to Tarsila Mukogaita
- iii. 1 acre to Leonard Kamenchu

Leonard Kamenchu on the other hand filed affidavit in protest of Tarsilas proposed mode of distribution and averred that L.R.Ngusishi Settlement Scheme/124 had been subdivided in 2005 by the deceased into 5 equal portions of one acre each and transferred to

- Leonard Kamenchu
- Moses Gakuta
- Basilio Guantai
- Michael Kobia
- George Thurania

He said transfer was not affected because land had not been discharged by settlement Fund Trustees. He said the beneficiaries of the portions took occupation in 2007 and have build home. He said the deceased was categorical that the 1st petitioner was to occupy parcel given to her son George Thurania.

From the Letter written by the District Commissioner Buuri District dated 7th May 2012 the deceased had the following surviving him

- i. Kalatu M'Ibuuri – Deceased
- ii. Sabina Mburia M'Gere – Daughter
- iii. Leonard Kamencu – son
- iv. Tarsila Mukogaiti – daughter

Ciorimberia M'Athiru died on 30th September 2009 aged 98 years. Any of the 3 surviving children of the deceased had equal right to petition for Letters of Administration to the estate. Sabina Mbura Ibere by an affidavit sworn on 15th May 2012 supported 1st petitioner proposal on mode of distribution.

The estate herein is supposed to be distributed amongst the children of the deceased and not grandchildren the way the protest has proposed. The 1st petitioner Tarsila Mukogaita has not explained why she should get 3 acres as opposed to her sister Sabina Mbura and his brother Leonard Kamenchu who are supposed to get one acre each.

Inconsideration that the law should not have preferential treatment to different people and that everyone is equal before the law this court hereby order that the estate shall be distributed amongst the 3 surviving beneficiaries equally and a certificate of confirmation to issue to that effect.

HON. A.ONG'INJO

JUDGE

RULING, DELIVERED, DATED AND SIGNED IN COURT IN

26TH JULY 2018.

In the presence of:

C/A: Penina

Petitioner: Mr Igweta Advocate for 1st Petitioner

Protester: Mr Gatari Advocate for 2nd Petitioner/Protester – N/A

Parties present in person.

HON. A.ONG'INJO

JUDGE