



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 382 OF 2014

IN THE MATTER OF ESTATE OF LYDIA NTIBUKA IGWETA (DECEASED)

DANIEL MUTWIRI M'IGWETA....1ST PETITIONER/APPLICANT

DAVID MWIRARIA IGWETA.....2ND PETITIONER/APPLICANT

VS

GLADYS KATHURE KITHINJI.....RESPONDENT

RULING

The deceased herein Lydia Ntibuka Igweta died on 8th June, 2010 and left the following assets and dependants:-

ASSETS

1. Ntima/Igoki/5674
2. Ntima/Igoki/3478
3. Kiirua/Ruiri/4543
4. Kiirua/Ruiri/4546
5. Kiirua/Ruiri/4547
6. Kiirua/Ruiri/676

DEPENDANTS

1. Daniel Mutwiri
2. Julius Muriuki
3. Judith Kigetu
4. Catherine Nkirote
5. David Mwiraria
6. Sarah Karemi
7. Gladys Kathure
8. Martha Kinya

While writing letter identifying the beneficiaries dated 3rd December 2013 the Chief of Ruiri Location indicated agreed mode of distribution

of the estate as follows:-

A . KIIRUA/RUIRI/676

- a) Daniel Mutwiri – I acre & 40 x 80 ft
- b) Julius Muruiki– 1 acre & 40 x 80 ft
- c) Judith Kigetu - 1 acre & 40 x 80 ft plot
- d) Catherine Nkirote – 40 x 80 ft plot
- e) David Mwiraria - 1 acre & 40 x 80 ft plot
- f) Sarah Karimi – 40 x 80 plot
- g) Gladys Kathure – I acre & 40 by 80 ft

h) Martha Kinya – 1 acre & 40 x 80 ft

B. Kiirua/Ruiri/4547 to go to Sarah Karimi Gikundi wholly – 0.382 Ha

C. Kiirua/Ruiri/4546 – To go to Catherine Nkirote Chabari – 0.382 Ha wholly

D. Kiirua/Ruiri/4543

1. Judith Kigetu – 1 acre
2. Sarah Karimi
3. Gladys Kathure
4. Martha Kinyat o share $\frac{1}{2}$ acre equally

E. Ntima/Igoki/3478 to be shared equally amongst the deceased persons children – Girls taking $\frac{1}{2}$ and the boys taking $\frac{1}{2}$.

F. Ntima/Igoki/5674 – Developed plot at Makutano.

- Daughters to share $\frac{1}{2}$ equally
- Sons to share $\frac{1}{2}$ equally

Gladys Kathure/Respondents Counsel herein adopted this mode of distribution and she swore an affidavit of accounts on 25th April 2017 and the 2nd Petitioner David Mwiraria is in agreement with the said distribution and account of rents collected from estate.

Daniel Mutwiris advocate M/S Kaberia Arimba and Co. Advocates have made proposals for distribution in the submissions filed on 24th August 2017 and said;

1. L.R. No. Kiirua/Ruiri/4543 should be shared equally by :-

- Paul Mbaabu M’Igweta
- Sarah Karimi

2. L.R. Kiirua/Ruiri/4546 to go to Samwel Mutembei wholly

3. That Gladys Kathure should account for Rents received from developments on L.R. Ntima/Igoki/5674 and Kiirua/Ruiri/676.

4. He said L. R. No. Ntima/Igoki/3478 to be shared among the beneficiaries.

5. L.R. Ntima/Igoki/5674 to be shared equally among all beneficiaries.

6. L.R. No. Kiirua/Ruiri/676 to be shared equally among:-

- Daniel Mutwiri
- Julius Muriuki
- Samuel Mutembei
- Martha Kinya
- David Mwiraria
- Gladys Kathure

Daniel Mutwiri said that L.R. No. 4543 resulted from subdivision of L.R. Kiirua/Ruiri/821 and L.R. No. Kiirua/Ruiri/4546 resulted from subdivision of L.R. Kiirua/Ruiri/1256.

Daniel does not explain who Samuel Mutembei is as his name does not appear in the chiefs letter as a dependant or beneficiary of the deceased. The name does not also appear in form P & A 5. This court finds that 1st petitioner stands on his own as far as mode of distribution is concerned. The proposed mode of distribution supported by 2nd Administrator and Respondent Gladys Kathure was agreed on by all the beneficiaries in the presence of the chief of Ruiri Location and in view of this court considers all the beneficiaries of the deceased and is a fair and just distribution. All the properties have been distributed in a balanced manner amongst the beneficiaries and a certificate should issue to that effect.

HON. A.ONG'INJO

JUDGE

RULING SIGNED, DELIVERED AND DATED THIS 9th DAY OF AUGUST 2018.

IN THE PRESENCE OF:

C/A: Penina

Mr Gikunda Anampiu for 2nd Administrator

Applicant:- N/A

MS Kaberia Arimba Advocate for 1st Administrator

Respondent:- N/A

Daniel Mutwiri – Present in person

David Mwiraria – Present in person

Gladys Kathure- Present in person

HON. A.ONG'INJO

JUDGE