



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 185 OF 2009

IN THE MATTER OF THE ESTATE OF M'ICHABA M'ARUNGA (DECEASED)

BENEDICT PIUS MARANGU M'ARUNGAPETITIONER

-VS-

JAMES P. RIUNGU.....OBJECTOR

FINAL JUDGMENT

1. On 28th June, 2018, this court delivered a partial judgment wherein it directed the administrator do file and serve within 30 days a detailed affidavit specifying all the children of the deceased those alive and those deceased; specify who the grand-children are and to whom they belonged; get the concurrence in writing of those daughters of the deceased who had not signed the consent to the proposed distribution or their renunciation in writing. He was also to specify how the beneficiaries occupied the estate land on the ground.
2. The matter came up for mention to confirm compliance on 18th June, 2018 and 15th October, 2018. However, on both occasions, the court found that the directions had not been complied with. On the said 15th October, 2018, the court gave the petitioner 14 days to comply, but as at the time of writing this final judgment, nothing had been filed.
3. This being a very old matter, it cannot be left to the parties or any one of them to dictate how and when it is to be determined. In this regard, the court has decided to make a determination based on the material on record. In its partial judgment, the court held that the estate will be distributed equally to all the children of the deceased in terms of *section 40 of the Law of Succession Act ("the Act")*. The shares of those children of the deceased beneficiaries will go to their respective children in terms of *section 41 of the Act*.
4. There are 3 properties. The court does not know how the parties have occupied the same on the ground. The parties were given the opportunity to inform the court, to avoid the many frivolous applications for rectification that are abound in Succession matters after confirmation, but they failed to do so. In this regard, the estate will be distributed as follows: -

a) L. R No. Mitunguu/Kithino/600

b) L. R No. Mitunguu/Kithino/601

c) L. R. No. Nkuene/Nkumari/529

i) Benedict Pius Marangu

ii) David Pius Mugambi

iii) Jacob Mputhia Pius

iv) James Pius Riungu

v) Kanana Njogu Silas

Elity Makena Njogu

Jackline Karwitha Njogu

- vi) Mutugi M'Mwobobia
- vii) Rose Gaki Kamunde
- viii) Priscilla Njeri Muthuri
- ix) Gantuku Mburugu
- x) Lucy Kabugi Mburugu
- xi) Anjelina Mpinda Gauku
- xii) Christine Nkirote Kimaita
- xiii) Caroline Ngugi Mwawasia
- xiv) Agnes Gauku Pius
- xv) Mugito Pius
- xvi) Kagwiria Pius
- xvii) Karambu Pius Equally

d) During distribution, the administrators should endeavour to ensure that each beneficiary is allocated the area or place or position that he was in occupation at the time of the demise of the deceased.

e) The grant of letters of administration issued to Benedict Pius Marangu M'Arunga and James Pius Riungu is hereby confirmed.

f) Distribution be effected within 6 months from the date of this final judgment.

g) This being a family matter, I make no order as to costs.

DATED and DELIVERED at Meru this 29th day of November, 2018.

A. MABEYA

JUDGE