



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 229 OF 2004**

**IN THE MATTER OF THE ESTATE OF THE LATE STANLEY MUCHIRI KUBAI (DECEASED)**

**POLYCARP KOOME KUBAI.....1<sup>ST</sup> PETITIONER**

**FELIX GACAMBA.....2<sup>ND</sup> PETITIONER**

**MARY KUBAI.....3<sup>RD</sup> PETITIONER**

**JUDITH NAITORE.....4<sup>TH</sup> PETITIONER**

**VERSUS**

**SALOME KAIMURI KUBAI .....OBJECTOR**

**RULING**

1. This matter relates to the estate of **Stanley Muchiri Kubai** (the deceased) whose main issue is its distribution. Upon perusal of the records, it is clear that the petitioner and the objector have given reports that are contradicting as regards what constitutes the assets of the deceased. The Petitioners have set out the following as the assets of the deceased:-

- a) PLOT NO. 5272 ITHIMA/ANTUAMBUI
- b) PLOT NO. 5542 ITHIMA/ANTUAMBUI
- c) PLOT NO. 5112 ATHIRU RUUJINE
- d) PLOT NO. 4474 ATHIRU RUUJINE
- e) PLOT NO. 1748 ATHIRU RUUJINE
- f) PLOT NO. 5746 CAPE CORNER
- g) PLOT NO. 3156 MAUA
- h) PLOT NO. 3135 MAUA
- i) PLOT NO. 9947 MAUA
- j) LAND PARCEL 2234 MUTUATI/AMWATHI II (gathering stage)

2. On the other hand, the objector's list has the following as constituting the assets of the deceased:-

- a) ATHIRU RUUJINE PLOT NO. 5112
- b) ATHIRU RUUJINE PLOT 1748
- c) ATHIRU RUUJINE PLOT NO. 4475

d) ATHIRU RUUJINE PLOT NO. 4475

e) ITHIMA/ANTUAMBUI/15275

f) ITHIMA/ANTUAMBUI/542

g) AMWATHI MAUA PLOT NO. 196

h) AMWATHI MAUA PLOT NO. 3135

i) AMWATHI MAUA PLOT 3156

j) MUTUATI/AMWATHI/2234 (gathering stage)

3. None of the parties have produced any evidence to show that the deceased owned the properties they have set out to distribute. It must be demonstrated to a family court that the properties sought to be distributed belong to the deceased and therefore form part of his estate. Without any such evidence, the court cannot commence any distribution of such property, lest it distributes property that does not form part of the estate.

4. In this regard, to enable this court render its judgment on distribution, I direct that:-

a) the parties do file and exchange copies of titles or searches for the respective properties that they contend belong to the deceased within 7 days.

b) this matter be mentioned on the 13<sup>th</sup> December, 2018 to confirm the filing of the same and to give a date for judgment

It is so ordered.

**DATED and DELIVERED at Meru this 29<sup>th</sup> day of November, 2018.**

**A. MABEYA**

**JUDGE**