



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 187 OF 2006**

**IN THE MATTER OF THE ESTATE OF M'TWARUCHIU KAMANGA (DCD)**

**EVANGELINE NTHIIRA M'TWARUCHIU.....PETITIONER**

**VERSUS**

**M'NKANATA M'TWARUCHIU.....OBJECTOR/APPLICANT**

**RULING**

The deceased M'Twaruchiu Kamanga died on 7<sup>th</sup> June 2004 and according to letter dated 21<sup>st</sup> June 2018 written by Chief of Kibirichia Location was survived by:

- 1) Evangeline Nthiira M'Twaruchiu - Widow
- 2) Nkanatha M'Turuchiu – Son
- 3) Stella Gakii – Daughter
- 4) Elijah Gitonga – Son
- 5) Jennis Kirumba – Daughter
- 6) Faith Kinanu – Daughter

The survivors authorized Evangelin Nthiira M'Twaruchiu to petition letters of administration.

Evangeline Nthiira M'Twaruchiu was appointed Administrator on 10<sup>th</sup> November 2006.

M'Nkanata M'Twaruchiu filed application for revocation of grant dated 1<sup>st</sup> November 2006 seeking to be appointed Co-Administrator.

He claimed his step mother petitioned for Letters of Administration secretly without consulting him. He said his father's wishes was that he gets 2 acres in that estate.

Application for revocation was dismissed in ruling delivered on 22<sup>nd</sup> June 2007.

Application for confirmation was filed on 4/7/2007 dated 4<sup>th</sup> July 2007. The Administration proposed distribution of one acre to herself to hold in trust for Elijah Gitonga, 3 acres to Elijah Gitonga and one acre each to the daughter of the deceased M'Nkanata M'Twaruchiu filed affidavit of protest to application for confirmation and distribution sworn on 11<sup>th</sup> July 2007 saying the petitioner was step mother had left him out of the distribution.

That the petitioner had left out some assets namely Plot No. Kibirichia 12 "B" which he occupied jointly with the deceased.

He said he had planted trees on L.R. Kibirichia 265.

He proposed that he is his step brother Elijah Gitonga should get 2 acres each, the petitioner to get one acre whereas the daughters of the deceased to share 2 acres equally.

The protestor called one witness to claim that L.R. No. Kibirichia 265 was not acquired by the deceased but by the protestor on her own. The petitioner called 2 witnesses who claimed that the deceased had given her son the protestor L.R No 247 to the Administrator and her children.

The minutes of the meeting chaired by petitioner's witnesses were not availed. There was no evidence that the protestor was on land which the father occupied as a member of led committee and registered in his name.

In the circumstances L.R Kibirichia/247 will be shared equally by the widow of the deceased, the protestor, Elijah Gitonga and the 3 daughters of the deceased. The shares at Nkuriga Traders Company Ltd shall devolve to the widow Plot No. 12 B shall go to the protestor. Those are orders of the court. Costs to be bore by parties.

**HON. A. ONG'INJO**

**JUDGE**

**RULING SIGNED, DELIVERED AND DATED THIS 22<sup>ND</sup> DAY OF NOVEMBER, 2018**

**IN THE PRESENCE OF:**

C/A – Kinoti

M/s Aketch H/B for Gikunda for Objector

Mr. Kithinji Advocate for Petitioner

**Court** – Certified copy of the ruling to be supplied upon payment of copy of charges.

**HON. A. ONG'INJO**

**JUDGE**

22/11/2018