



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

SUCCESSION CAUSE NO 13 OF 1997

IN THE MATTER OF THE ESTATE OF M' RAIBUNI MUNYORA-DECEASED

JOSEPH M' MAGAMBO M' RAIBUNI.....PETITIONER

WILLIAM JOHN MUGO.....RESPONDENT

VERSUS

REGINA NCABIRA Legal Representative of ESTHER GAUKU (DECEASED).....OBJECTOR

JUDGMENT

[1] These proceedings relate to the Estate of M' Raibuni Munyora (deceased). By Summons for Confirmation of Grant filed in court on 14th July 2017, the 1st petitioner (now deceased) sought to distribute the estate of the deceased as follows;

LP NO. NKUENE/KATHERA/738

SILAS MWITI RAIBUNI-0.40 HA

- 1. JOSEPH M' MAMBO RAIBUNI**
- 2. STEPHEN KIOGORA MUNYUA**
- 3. JOSEPHINE KARAMBU MBAYA**
- 4. ISABELLA NCERI MURUNGI**
- 5. LYDIA KOOME**
- 6. WILLIAM JOHN MUGO**
- 7. REGINA NABIRA ESTHER**
- 8. BEATRICE MUKAMI**
- 9. JULIA MPAKA RAIBUNI**
- 10. LYDIA KAIRIGO MWEBIA**
- 11. CHARITY KATHAMBI JOHN**
- 12. DORISH WANJA JOHN**
- 13. MARGARET NYAI (LIFE INTEREST AND**

14. THEREAFTER TO THE FOLLOWING IN

15. EQUAL SHARES (JENNIFER KAMAKIA, PETER MURIUKI, JOSEPHINE KANYUA KINYA& SAMUEL KIBITI M' RAIBUNI

16. JENNIFER KAMAKIA

17. PETER MIRIUKI

18. JOSEPHINE KANYUA KINYUA

19. SAMUEL KIBITI M' RAIBUNI

PLOT NO. 21A NKUBU

1. JOSEPH M' MAGAMBO M' RAIBUNI

2. STEPHEN KIOGORA MUNYUA

3. JOSEPHINE KARAMBU MBAYA

4. SILAS MWITI RAIBUNI

5. ISABELLA NCERI MURUNGI

6. LYDIA KIOME

7. WILLIAM JOHN MUGO

8. REGINANCABIRA ESTHER

9. BEATRICE MUKAMI

10. JULIA MPAKA RAIBUNI

11. LYDIA KAIRIGO MWEBIA

12. CHARITY KATHAMBI JOHN

13. DORISH WANJA JOHN

14. MARGARET NYAI

15. JENNIFER KAMAKIA

16. PETER MURIUKI

17. JOSEPHINE MANYUA KINYUA

18. SAMUEL KIBITI M' RAIBUNI.....PLOT TO BE SOLD AND PROCEEDS SHARED EQUALLY

[2] The objector opposed the proposed mode of distribution by the 1st petitioner. But, contended that the only bone of contention was Plot No. 21A Nkubu and that the rest of the estate should be distributed amongst the 1st, 3rd and 4th houses in equal shares. She further contended that the said plot belonged to her mother who had developed it during the deceased's lifetime.

[3] The 2nd petitioner on the other hand proposed to distribute the estate of the deceased as follows; PLOT NO. 21A NKUBU be sold and the proceeds shared as follows;

a). WILLIAM JOHN MUGO-25%

b). REGINA NCABIRA-10%

c). IREEN MAKENA-15%

d). JOSHUA MAGAMBO (DECEASED)

e). JOHUA MUNYUA (DECEASED)

f). JOSPHAT MBAYA (DECEASED)

g). SILAS MWITI

h). SUSAN NCERI

i. SAMUEL KOOME (DECEASED)

j. BEATRICE MUKAMI

k. JULIA MPAKA

l. LYDIA KAIRIGO

m. DORIS WANJA

n. CHARITY KATHAMBI

o. KANYUA KINYUA

p. KINANU KAMAKIA

q. PETER MURIUKI

r. SAMWEL KIBITIall to share 50%

[4] The 2nd petitioner contended that he had extensively developed the plot by installing water and electricity and that he was the one who demolished the original building and put up another building at a cost of Kshs 1.5 million and that in view of the developments made he was able to raise the rent from Kshs. 2,000 to 11,500 per month.

ANALYSIS AND DETERMINATION

[5] Emerging from the proposed mode of distribution by the 1st and 2nd petitioners and the objectors is that:

(1) The 1st petitioner proposed to distribute the estate equally among all beneficiaries of the deceased estate; save for 0.40HA of L.P NKUENE/KATHERA which he contended had been given to Silas Mwititi by the deceased during his lifetime.

(2) The 2nd petitioner proposed to be awarded 25% of the proceeds of sale of Plot No. 21A Nkubu for he contended he had extensively developed the plot by installing water and electricity and that he was the one who had demolished the original building and put up another building at the cost of Kshs 1.5 million.

(3) The objector contended that her mother's house should get the lion's share of the rent collected and the intended sale proceeds of plot number 21A Nkubu market, since her mother had developed the plot single handedly and had secured a loan to do so during her lifetime. And that the deceased had left directions during his lifetime that plot No. 21A belonged to the 2nd house.

[6] I have looked but I find no evidence to support the claims that the objector and 2nd petitioner that any one of them developed the plot in question. The said plot No 21A is estate property.

[7] Parties seem to agree with the proposal by the 1st petitioner except on the plot. In the circumstances of this case, I find the proposed mode of distribution by the 1st petitioner to be fair, equitable and reasonable as all the beneficiaries of the deceased have been provided and or catered for. Accordingly, the estate of the deceased shall be distributed in accordance with paragraph 5 of the affidavit in support to the Summons for Confirmation of Grant dated 12th July 2017. More specifically:-

LP NO. NKUENE/KATHERA/738

1. Silas Mwititi Raibuni-0.40 Ha

Balance to be Shared Equally Amongst:

a. Joseph M' Mambo Raibuni

- b. Stephen Kiogora Munyua
- c. Josephine Karambu Mbaya
- d. Isabella Nceri Murungi
- e. Lydia Koome
- f. William John Mugo
- g. Regina Nabira Esther
- h. Beatrice Mukami
- i. Julia Mpaka Raibuni
- j. Lydia Kairigo Mwebia
- k. Charity Kathambi John
- l. Dorish Wanja John
- m. Margaret Nyai (Life Interest: And Thereafter To The Following In Equal Shares; Jennifer Kamakia, Peter Muriuki, Josephine Kanyua Kinya& Samuel Kibiti M' Raibuni)
- n. Jennifer Kamakia
- o. Peter Miriuki
- p. Josephine Kanyua Kinyua
- q. Samuel Kibiti M' Raibuni

PLOT NO. 21A NKUBU to be sold and proceeds shared equally among:-

- a. Joseph M' Magambo M' Raibuni
- b. Stephen Kiogora Munyua
- c. Josephine Karambu Mbaya
- d. Silas Mwiti Raibuni
- e. Isabella Nceri Murungi
- f. Lydia Kiome
- g. William John Mugo
- h. Reginancabira Esther
- i. Beatrice Mukami
- j. Julia Mpaka Raibuni
- k. Lydia Kairigo Mwebia
- l. Charity Kathambi John
- m. Dorish Wanja John
- n. Margaret Nyai
- o. Jennifer Kamakia

p. Peter Muriuki

q. Josephine Manyua Kinyua

r. Samuel Kibiti M' Raibuni

The monies deposited in Family Bank shall also be shared equally among all beneficiaries of the deceased's estate.

[8] This being a succession matter, there will be no order as to costs.

Dated, signed and delivered in open court at Meru this 19th day of December, 2018

F. GIKONYO

JUDGE

IN PRESENCE OF

Kirimi for Anampiu for 2nd petitioner

Muthomi for 1st petitioner – Miss Ayata holding brief

F. GIKONYO

JUDGE