



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NO. 587 OF 2009

IN THE MATTER OF THE ESTATE OF WILLIAM KIMENJO ARAP (DECEASED)

LINNER CHEROTICH BIEGON

SAMSON KIPKOECH MENJO MOSONIK

JOHN KIBET MOSONIK MENJO

AGNES CHEPKEMOI MOSONIK.....PETITIONERS

VERSUS

SALOME RUGURU MIRITU.....RESPONDENT

RULING

1. This ruling is in respect of the summons for rectification of grant dated 11th February, 2016 brought by the petitioners herein seeking orders:

1. THAT the certificate of grant issued to the said LINNER CHEROTICH BIEGON, SAMSON KIPKOECH MENJO MOSONIK, JOHN KIBET MOSONIK MENJO and AGNES CHEPKEMOI MOSONIK on 30th August, 2012 be rectified in the following respect as provided for by Rule 43(1) of the Probate and Administration rules.

2. THAT the following properties be distributed as follows:

a) LR. NO.6885 NAKURU (measuring approx 1,792 acres) to be distributed as follows:

a) 132.4 acres to be transferred to Linner Cherotich Biegong to hold in trust for herself and her children namely:

Joseph Kiplangat Mosonik

Jasmine Chebet Mosonik and

Nimrod Kipchirchir Mosonik

b) 25.08 acres to be transferred to Nancy Chepkorir Mosonik

c) 18.28 acres to be transferred to Agnes Chepkemoi Mosonik

d) 25.08 acres to be transferred to Loise Chelangat Mosonik

e) 18.28 acres to be transferred to Janet Chepkurui Mosonik

- f) 18.28 acres to Catherine Chepngetich Mosonik
- g) 48 acres to be transferred to Samson Kipkoech Menjo Mosonik
- h) 48 acres to be transferred to John Kibet Mosonik Menjo
- i) 54.6 acres to be transferred to Gerald Mosonik Menjo

b) PARCELS NO.KERICHO.CHEPTALAL/1284, 1364,252 and 308 (MEASURING APPROXIMATELY 98.4 ACRES)

To be merged and subdivided as following:

- a) 6.2 acres to Linner Cherotich Biegon
- b) 6 acres to Joseph Kiplangat Mosonik
- c) 6 acres to Nimrod Kipchirchir Mosonik
- d) 20.6 acres to Samson Kipkoech Menjo Mosonik
- e) 20.8 acres to John Kibet Mosonik Menjo
- f) 14.4 acres to Gerald Mosonik Menjo
- g) 6 acres to Catherine Chepngetich Mosonik
- h) 6 acres to Janet Chepkirui Mosonik
- I) 6 acres to Agnes Chepkemoui Mosonik
- j) 6.4 acres to Jasmine Chebet Mosonik

3. THAT parcel No. NAKURU MUNICIPALITY BLOCK 514 and 515 to be rectified and read as Parcel No. NAKURU MUNICIPALITY BLOCK 29/1514 and 29/1515.

4. THAT scrap metal to be shared equally.

5. THAT IMT/558 RED DIESEL KSE 032-01 and Nissan Canter KQY 951-01 to be rectified to read IMT/558 RED DIESEL KSE 032 and Nissan Canter KQY 951.

6. THAT NAKURU HOUSE within parcel No. LR 6885 to go to JOHN KIBET MOSONIK MENJO.

7. THAT HOUSE, KIBANDA STORE and GENERATOR HOUSE within parcel No. KERICHO CHEPTALAL/308 to go to SAMSON KIPKOECH MENJO MOSONIK.

8. THAT PEUGEOT 504 KSA 440 to go to LINNER CHEROTICH BIEGON.

9. THAT cost of the application be provided for.

2. The application is supported by the affidavit of Samson Kipkoech Menjo Mosonik sworn with authority of the Co-administrators.

3. It is the applicants' case that though the administrators were to hold the assets in the estate in trust for themselves and the beneficiaries pending the incorporation and registration of a company in whose favour titles shall be shared the beneficiaries have now agreed to share as per the attached schedule herein.

4. The co-administrators have sworn individual affidavits in support of the position in the affidavit of Samson Kipkoech Menjo Mosonik.

5. The twelve beneficiaries have each executed a consent to the rectification of grant.

6. I have applied my mind to the application, the supporting affidavit and the affidavits of the co-petitioners. I have put into account the consent signed by all the twelve beneficiaries.

7. As held in the Court of Appeal decision in Justus Thiora Kiugu and 4 others V. Joyce Nkatha Kiugu & Another, [2015] Eklr, where parties agree on a mode of distribution of the estate of an intestate, then the court must adopt that consent and make it an order of court.

8. Accordingly, the summons for rectification of grant herein is allowed, The distribution of the estate be in accordance with the consent and schedule of distribution annexed thereto.

9. Costs be borne out of the estate.

Dated, Signed and Delivered at Nakuru this 23rd day of March, 2017

A. K. NDUNG'U

JUDGE