



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MURANG'A**

**SUCCESSION CAUSE NO 265 OF 2013**

***IN THE MATTER OF THE ESTATE OF ELIZABETH THUNGURI MWANGI, DECEASED***

**FRANCIS KAMAU MWANGI.....ADMINISTRATOR**

**VERSUS**

**EUNICE NJERI MWANGI.....PROTESTOR**

**J U D G M E N T**

1. A grant of letters of administration intestate in this cause was on 14/12/2013 made to **Francis Kamau Mwangi** (hereinafter called the **Administrator**) and issued on 17/12/2013. He subsequently applied by **summons dated 17/07/2014** for confirmation of that grant. At paragraph 7 of the supporting affidavit he set out his proposals for distribution of the Deceased's estate. Those proposals were agreeable to all the Deceased's beneficiaries except one, **Eunice Njeri Mwangi** (hereinafter called the **Protestor**) who filed an affidavit of protest on 20/01/2015. At paragraph 4 of that affidavit the Protestor counter-proposed distribution.

2. The court in due course directed that the protested summons for confirmation of grant be heard by way of oral evidence. That hearing took place on 05/04/2017. Both the Administrator and the Protestor testified. None of them called any witness.

3. I have considered those testimonies. I have also given due consideration to the submissions made by the learned counsel for the Administrator and those of the Protestor who was unrepresented.

4. The following facts are not in dispute –

(a) The Deceased **Elizabeth Thunguri Mwangi** died intestate on 02/01/2011.

(b) The Deceased was survived by the following children (all adults):

(i) The Administrator

(ii) Esther Waitherero Mburu

(iii) The Protestor

(iv) Esther Wambui Njogu

(v) Lucy Njoki Mwangi

(vi) Jane Wanjiru Mwangi

(vii) Alice Wanjiku Gitau

(c) The Deceased had another son, **Samuel Mirii Mwangi**, who died before the Deceased but was survived by some eight (8) children. His widow subsequently died.

(d) The Deceased had a third son, **James Kamande Mwangi**. He also died before the Deceased but was without spouse or issue.

(e) The Deceased's estate comprises –

(i) **LR LOC 7/ICHAGAKI/3044** (approximately 1.6 acres)

(ii) **LR LOC 7/ICHAGAKI/3545** (approximately 0.5 acres)

(iii) **Barclays Bank of Kenya Ltd** shares in Account No 42096.

(iv) **East African Breweries Limited** shares in Account No 723150

(f) Five (5) of the surviving daughters of the Deceased (**Esther Waitherero Mburu, Esther Wambui Njogu, Lucy Njoki Mwangi, Jane Wanjiru Mwangi and Alice Wanjiku Gitau**) have agreed to take jointly LR LOC 7/ICHAGAKI/3545 and nothing else.

(g) That leaves the Administrator, the Protestor and the deceased son Samuel Mirii Mwangi who was survived by children (represented by his son **Joseph Kamau Mirii**).

Towards the end of the hearing there was consensus (in the submissions) that LR LOC 7/ICHAGAKI/3044 should be shared equally between these three.

(h) There was similar consensus that the Barclays Bank and East African Breweries shares should be similarly shared between the three.

5. In the circumstances I will confirm the grant and direct that the net estate of the Deceased shall be distributed as follows –

(a) LR LOC 7/ICHAGAKI/3545 shall go jointly to the following beneficiaries who shall have equal shares therein:

(i) Esther Waitherero Mburu

(ii) Esther Wambui Njogu

(iii) Lucy Njoki Mwangi

(iv) Jane Wanjiru Mwangi

(v) Alice Wanjiku Gitau

(b) LR LOC 7/ICHAGAKI/3044 shall be shared equally between -

(i) Francis Kamau Mwangi

(ii) Eunice Njeri Mwangi

(iii) Joseph Kamau Mirii (in trust for himself and all his siblings)

(c) The shares with Barclays Bank in Account No 42096 and the shares with East African Breweries in Account No 723150 shall also be shared equally between –

(i) Francis Kamau Mwangi

(ii) Eunice Njeri Mwangi

(iii) Joseph Kamau Mirii (in trust for himself and all his siblings).

That will be the judgment of the court.

6. Parties shall bear their own costs of these proceedings.

**DATED AND SIGNED AT MURANG'A THIS 27<sup>TH</sup> DAY OF APRIL 2017**

**H P G WAWERU**

**JUDGE**

**DELIVERED AT MURANG'A THIS 28<sup>TH</sup> DAY OF APRIL 2017**