



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 341 'B' OF 2002**

**IN THE MATTER OF THE ESTATE OF M'MUKETHA M'TWAMWARI (DECEASED)**

**MARY KARAMBU MUTIRIA.....1<sup>ST</sup> APPLICANT/2<sup>ND</sup> ADMINISTRATOR**

**WILLIAM MUGAMBI MUKETHA..2<sup>ND</sup> APPLICANT/3<sup>RD</sup> ADMINISTRATOR**

**VS**

**REBECCA KATHURE MUKETHA.....RESPONDENT/1<sup>ST</sup> APPLICANT**

**RULING**

By a judgment delivered by J. A. Makau Judge on 19<sup>th</sup> day of February 2013 grant issued on 19<sup>th</sup> February 2003 in respect of the estate of M'Muketha M'Twamwari was issued to:

1. Rebecca Kathure Muketha was revoked and fresh grant issued in the name of Rebecca Kathure Muketha William Mugambi Muketha and Mary Karambu Mutuma;
2. All titles arising out of Confirmed grant issued on 30<sup>th</sup> June 2008 were cancelled and same ordered to revert to deceased name. Order was to be served on Registrar Imenti North District to comply.
3. The joint administrators were given 60 days to file joint scheme of distribution on separate scheme of distribution and set matters done for confirmation of grant.

By summons dated 1<sup>st</sup> October 2014 Mary Karambu and William Mugambi Muketha filed application for confirmation supported by affidavit in which at paragraph 5,6 and 7 sought to be allowed to execute application for confirmation as the 1<sup>st</sup> administrator had refused to sign consent.

Rebecca Muketha filed mode of distribution dated 25<sup>th</sup> June 2013 in which the sons were given 4 acres each while herself and their daughters got one acre each from P.No. 449 Ruiru Rwarera Adjudication sections and 2 acres each for the sons from Ntima/Ntakira/553 and balance which is unspecified to herself.

Mary Karambu on behalf of Objectors/2<sup>nd</sup> and 3<sup>rd</sup> Administrators filed proposal for distribution in which Rebecca Kathure Muketha was to get 0.5 acres, William Mugambi 2 acres, Jacob Kirema 2 acres, Charles Mburugu 2 acres and Mary Karambu and Joan Kathure was to share equally 0.75 acres and Janet Kendi and Rhoda Gatwiri were also to share 0.75 acres equally from parcel No. Ntima/Ntakira/553.

It was also proposed by Mary Karambu that from P. No 449 Ruiru Rwarera Adjudication Section Rebecca Kathure Muketha was to get one acre which she had already sold. William Mugambi, Jacob Kirima and Charles Mburugu were to get 4 acres each whereas the daughters are to get one acre each.

Mr Rimita Counsel for 2<sup>nd</sup> and 3<sup>rd</sup> Administrators confirmed the court that Mary Karambu had died and her husband wanted her share from the estate to be devolved to him. Counsel therefore wanted the court to determine that issue.

The take of this court would be that if Mary Karambu is survived by any children then her share should be devolved to those children equally. If she is not survived by any children then her share should be devolved to her sister Joan Kathure being that the sons in the estate already have the lions share. Concerning the distribution I do think that proposal that had been made by Mary Karambu Mutiria on 4.6.2013 now deceased was most reasonable and didn't depart much from Rebecca Kathure Mukethi as proposal especially in regard to P.No. 449 Ruiru Rwarera Adjudication section. Rebecca Kathure didn't explain why she didn't include the daughters in distribution of parcel No. Ntima/Ntakira/553 when she gave herself some portion.

The proposed distribution dated 4<sup>th</sup> June 2013 and filed on even date is therefore adopted and a certificate of confirmation of grant made by Judgment delivered on 19<sup>th</sup> day of February 2013 to issue to that effect. No orders as to costs.

**HON. A. ONG'INJO**

**JUDGE**

**31.8.2017**

Before Adwera – Ong'injo

Penina – Court Assistant

Mr Mutunga Advocate Holding brief for Rimita for Applicant

Respondent – N/A

**Court**

Ruling delivered, dated and signed in court.

**HON. A. ONG'INJO JUDGE**

**31.8.2017**