

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 1295 OF 2012

IN THE MATTER OF THE ESTATE OF MICHAEL NDAHIRA NGOBE (DECEASED)

RULING

1. On 25th January 2016, Achode J. dismissed an application by George Chege Ndaihira, in which he had sought to be made a co-administrator to the estate of the deceased. The court found that he did not engender confidence of the other family members, and held that his appointment would delay the matter further. The administrators on record, Susan Nyambura Ndaihira and Teresia Muthoni Ndaihira, were found to be sufficient, and were directed to move with speed to file a summons for confirmation of their grant and for distribution of the estate.
2. On 28th July 2016, Teresia Muthoni Ndaihira filed a summons dated 18th April 2016, for confirmation of the grant. Another application for confirmation of grant, dated 25th January 2017, was lodged in the registry on even date by Susan Nyambura Ndaihira and George Chege Ndaihira.
3. Both applications were listed for hearing on 14th February 2017. The application dated 25th January 2017 was marked as withdrawn at the request of the advocate for the applicants in that application. The matter was allocated 15th March 2017 as the date for hearing. Come 15th March 2017 it was adjourned to 3rd April 2017, at the request of the advocate for the applicant in that application. The date was given in the presence of counsel for both sides.
4. The matter was not listed on 3rd April 2017, and a date was obtained at the registry on that day by the advocate for the applicant in the absence of counsel for the other parties, for hearing on 9th May 2017. There is an affidavit for service indicating that counsel for the other side had been served with a hearing notice for 9th May 2017.
5. Come 9th May 2017 only counsel for the applicant was in court. The court took out the matter and fixed it for hearing on 12th June 2017. It was directed that the other parties be served. It was further directed that should the other parties not attend court on the appointed date the matter would proceed their absence notwithstanding.
6. On 12th June 2017 only counsel for the applicant was in court with the applicant and a member of her side of the family. There is an affidavit of service on record, filed on 12th June 2017, indicating that the other side had been served on 10th May 2017 through counsel. I was informed that the family was in agreement save for George Chege Ndaihira who was insisting on being appointed administrator.
7. I am satisfied that all the parties in the matter had been served with the application for confirmation of grant, and were aware that the said suit was coming up for hearing on 12th June 2017. There is no affidavit of protest to the proposals made in the application dated 18th April 2016 on distribution of the estate. I am, however, unable to grant final orders for the property sought to be distributed has not been identified.
8. The applicant shall cause copies of the title documents to be placed before me by way of affidavit, complete with the sketch plan referred to in paragraph 4 of the affidavit on record sworn on 4th November 2016. It is so ordered.

DATED, SIGNED and DELIVERED at NAIROBI this 29TH DAY OF SEPTEMBER, 2017.

W. MUSYOKA

JUDGE