



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
SUCCESSION CAUSE NO. 16 OF 2011
IN THE MATTER OF THE ESTATE OF EVANSON NJUGUNA NGINGI *Alias* EVANSON
NJUGUNA NGUGI (DECEASED)

MARRIAM MUTHONI NJUGUNA.....1ST PETITIONER
MORRISON NGUGI NJUGUNA.....2ND PETITIONER

VERSUS

LUCY WANJIKU NJUGUNA.....OBJECTOR

RULING

Summons for confirmation of grant on the above petition dated 18th September, 2012 were taken out by Marriam Muthoni Njuguna and Morrison Ngugi Njuguna. They put forth their proposed mode of distribution of the estate of the deceased.

The protestor, Lucy Wanjiku Njuguna filed an affidavit of protest sworn on 6th May, 2013 and equally gave her proposal, on the mode of distribution.

This court faced with two rival proposals, directed that the issue of distribution of the estate be determined by way of *viva voce* evidence.

On conclusion of the evidence the Judge directed that the properties forming part of the estate of the deceased be valued. The parties have been unable to agree on which properties these constitute.

One widow, Miriam Njuguna contends that properties registered in her names, which she claims to have bought should not be subjected to valuation as they do not form part of the deceased's estate.

The list of assets forming the deceased's estate are listed in form P & A5 as:

- (a) Nyandarua/Silanga/24
- (b) Kampi ya Moto Menengai Block 2/583
- (c) Solai/Kirima Block 2/50

(d) LR No. 61/13 & 14 Intercity General Co. Ltd.

(e) LR No. 9110 (N.W. Elburgon Township)

The affidavit of protest includes some additional assets being:

(a) Menengai - 20 acres

(b) Rongai Mangu - (5 acres)

(c) Turi plot 9110 - (5 acres)

(d) Githurai Mniboko plot No. (196 X 40 X 60)

On the material before me, I am persuaded that all the properties listed in P & A5 and in the affidavit of protest need to be valued.

The determination of whether a property is not available for distribution is better left to the evidence on record.

Omitting any property from the valuation exercise may not aid the cause of equitable distribution should such a property be ultimately found by the court to be available for distribution.

With the result that:

1. All the properties named in the form P & A5 and in the affidavit of protest be valued.
2. The valuation be undertaken within the next sixty (60) days.
3. That a valuer be agreed upon by the parties.
4. That costs of the valuation be borne out of the estate.
5. In the meantime, proceedings herein be stayed to facilitate judgment writing after valuation.
6. The matter be mentioned on any day after sixty (60) days hereof for further directions.

Dated, Signed and Delivered at Nakuru this 16th day of June, 2016.

A. K. NDUNG'U

JUDGE