

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 377 OF 2011

IN THE MATTER OF THE ESTATE OF GURMEET KAUR GILL (DECEASED)

RULING

1. There are two applications for determination. One is dated 10th April 2013 and the other is dated 9th May 2013.
2. The application dated 10th April 2013 is brought at the instance of the executor. He asks for leave to proceed to distribute the remaining assets of the estate, for the share due to the beneficiary, Jasbir Singh Gill, to be deposited in court for the latter to deal with at his own costs, for copies of all available records and documents of the assets and liabilities to be filed in court and for orders to restrain the respondent from interfering with the administration of the estate by the applicant.
3. The application dated 9th May 2013 is by Jasbir Singh Gill, the beneficiary. It principally seeks that the executor accounts for the administration of the estate and completes administration within a period to be allowed by the court.
4. The grant herein was confirmed on 28th February 2012. It authorized the executor to proceed with distribution of the estate as per the terms of the will dated 22nd July 2005. Ideally, going by Section 83(g) of the Law of Succession Act, Cap 160, Laws of Kenya, the executor should have completed administration of the estate six (6) months after the grant was confirmed on 28th February 2012.
5. I find it strange that the executor has come back to court apparently for leave to distribute the estate. That is completely needless. Leave was granted on 28th February 2012, the estate ought to have been distributed by 28th August 2012. He cannot possibly have any excuse at all for failing to discharge his statutory duties. I do not see how Jasbir Singh is to blame for the executor's failure.
6. It is delays in completing a distribution that fuel conflicts. Similarly, it is the failure to account that forments disputes. The executor holds a position of trust. He should account for his administration of the estate as a matter of course. In fact an order of the court is not even necessary for the executor to give an account to court or to the beneficiaries.
7. I am persuaded that I should give orders on the two applications founded on the prayers in the Summons dated 9th May 2013.
8. The orders that I am moved to make are:-

(a) That the applications dated 19th April 2013 and 9th May 2013 are granted in the terms of prayers 1, 2 and 3 of the Summons dated 9th May 2013;

(b) That the account by the executor shall be rendered within thirty (30) days of this ruling;

(c) That the executor shall complete administration within forty five (45) days of date hereof, in default of which the grant made to him on 22nd July 2011 shall stand revoked; and

(d) That this matter shall be mentioned after thirty (30) days on a date to be given in court on date of delivery of the ruling for compliance.

DATED, SIGNED and DELIVERED at NAIROBI this 25TH DAY OF SEPTEMBER, 2015.

W. MUSYOKA

JUDGE