

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 1567 OF 1998

IN THE MATTER OF THE ESTATE OF KAMAU MUTHAMI (DECEASED)

RULING

1. I am to determine what should happen to the share allotted to Ida Njeri Kamau in Dagoretti/Mutuini/214 as per the certificate of confirmation grant dated 7th October 2002. This is as per the directions given by Kimaru J. on 11th October 2014 and 8th April 2014.
2. At the confirmation of the grant on 7th October 2002, Idah Njeri Kamau, widow of the deceased, was allotted 0.25 acre out of Dagoretti/Mutuini/214. She is now dead.
3. The two administrators are keen on having her share redistributed, so as to avoid having to file another cause for the distribution of her estate. They have, however, been unable to agree on how the same is to be distributed.
4. The first administrator's position is that the deceased, Idah Njeri, died testate, as she had made a valid will which gave directions on how her share in Dagoretti/Mutuini/214, arising from these proceedings was to be dealt with. She asserts that the said share should be dealt with in terms of the will of the deceased, which would mean that the property should devolve wholly upon the beneficiaries named in the will.
5. The other administrator takes the position that there is no valid will, and therefore there is no basis for disposing of the property of the deceased in the manner proposed by the first administrator. He proposes that the said share be distributed equally amongst all the four survivors of Idah Njeri.
6. The grant herein was confirmed. The late Idah Njeri was entitled to 0.25 acre of Dagoretti/Mutuini/214 out of that distribution. That was her share out of her husband's estate. Since she died after confirmation of the grant, her share ought to go to her estate.
7. I am being invited to distribute the estate of Idah Njeri in a cause commenced in respect of her dead husband, Kamau Muthami. There is an allegation that she had left a will in which she had disposed of her share from her husband's estate. Issues concerning to the validity of the said will have been raised.
8. As the instant cause relates to the estate of Kamau Muthami, and not Idah Njeri, there cannot be any legal basis for me to get into the matter of determining the validity of the alleged will. Neither should I venture to distribute her property in a cause relating to the estate of another.
9. The approach adopted with regard to the share of the late Idah Njeri is unprocedural. The parties are hereby directed to initiate a cause in the estate of the late Idah Njeri where all the issues that they are now raising before me in this cause can be resolved.

DATED, SIGNED and DELIVERED at NAIROBI this 23RD DAY OF OCTOBER, 2015.

W. MUSYOKA

JUDGE