



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUSIA

SUCCESSION CAUSE NO. 154 OF 2004

IN THE MATTER OF THE ESTATE OF SOKONI EDEWA DECEASED

AND

GREVAS BARASA ODEWA.....PETITIONER

VERSUS

SELPHA AUMA SOKONI.....OBJECTOR

RULING

1. On 5th May 2014, a consent herein was entered in the following terms:-

By consent;

1. **The Summons of 26.10.2012 is allowed only to the extent of rectification of the name.**
2. **Confirmation of grant shall issue jointly to both the Applicant and Respondent.**
3. **The Respondent shall within 21 days hereof respond to the distribution proposed by the Applicant in the affidavit of 26.5.2012.**

This Decision is an attempt to resolve an impasse on Distribution between the parties.

2. In paragraph 5 of the Affidavit of Selpha Auma Opiyo (Selpha) sworn on 26th May 2012, she proposes Distribution as follows:-

- a. **Selpha Auma Opiyo – Nil**
- b. **Faustina Nekesa - Nil**
- c. **Agneta Nanzala Sokono – 0.3025 ha**
- d. **Protus Kulundu Wasike – 1.33 ha**
- e. **Raphael Machu Khakaba – 0.31 ha**
- f. **Humphrey Okello – 0.6 ha**
- g. **Sheban Khaindikiri Sumba – 0.4 ha**
- h. **Grevas Barasa Edewa**

Stephen Onyango Wabwire & - 3.7475 ha

Pascal Wandera Ouma –

She makes an explanation of the proposal on Distribution in paragraphs 6, 7 and 8. It is important to reproduce them.

6) That the shares to myself and my sister Faustina Nekesa will go to the purchaser Protus Kulundu Wasike and Raphael Machu Khakaba.

7) That the purchasers Humphrey Okello and Shaban K. Sumba bought portions of land from Grevas Barasa Edewa who demarcated boundaries to them from his share of land.

8) That the remaining portion of land will be registered jointly in the names of Grevas Barasa Edewa, Stephen Onyango Wabwire and Pascal Wandera Ouma as they have refused to have their portions surveyed.

3. In responding to this proposal, Grevas Barasa Edewa (Grevas) stated that he does not recognize Duncan Okello, Protus Kulundu and Raphael Ekesa as neither he nor the Deceased sold any land to them.

4. In oral argument before Court, Mr. Wanyama for Selpha explained that the proposed Distribution by Selpha reflects the position on the ground. He also clarified that Duncan Okello is also known as Humphrey Okello.

5. What seems agreed is that the claim of those not recognized by Grevas are those of purchasers. Whether they may have had purchase agreements with either of the administrators or the Deceased may not be a matter for this Probate and Administration Court to deal with as none of their claims fall within those that find protection in Section 93 of the Law of Succession Act.

6. For that reason, I ask the parties to furnish to the Court a Distribution proposal which exclude any purchaser not recognized jointly by both of them. The unlucky “purchasers” will have to present their claims in an Environment and Land Court.

7. No order as to costs.

Dated, signed and delivered at Busia this 7th day of December 2015.

F. TUIYOTT

J U D G E

In the presence of :-

Oile C/Assistant

Applicant in person

N/A for Respondent