



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**

**SUCCESSION CAUSE NO. 1736 OF 2004**

**AND**

**IN THE MATTER OF JEDEL KAMAU GITHUBAI – DECEASED**

**RULING**

1. The Summons dated 7<sup>th</sup> September 2007 is up for determination. It seeks confirmation of the grant of probate of written will issued on 10<sup>th</sup> December 2004. The personal representative prays that the estate of the deceased be distributed as per his will made on 13<sup>th</sup> February 2002.
2. According to the will, the deceased proposed distribution of his property known as Laikipia/Marmanet/190, seven donkeys and four cows. Clause 3 of the will shared out Laikipia/ Marmanet /190 amongst the children as follows:-

i. Njenga Kamau	4 acres
ii. Mutahi Kamau	4 acres
iii. Mukundi Kamau	3 acres
iv. Karogi Kamau	3 acres
v. Jane Wangari Kamau	3 acres
vi. Wanjiru Kamau	3 acres
vii. Mariam Kamau	3 acres
viii. Mary Kamau	1 acre
ix. David Chege Kamau	1 acre
x. Rhoda Nyambura Kamau	1 acre
xi. Muthoni Kamau	1 acre
xii. Joseph Gakuru Kamau	1 acre

A grandson called Kamau Njenga is given 4 acres out of the same property, while George Ruthi Kamau has been disinherited for reasons given in the will. Njenga Kamau is further given a mobile phone, Lister engine, posho mill, timber bench, plough and a ledger, while Mariam and Wanjiru Kamau are given a house and store to share jointly. The seven donkeys are shared between Njenga Kamau, Mukundi Kamau and Ngari Kamau in the ratio of 2:2:1 respectively. The four cows are taken by Kamau Njoroje, Karogi Kamau, Wanjiru Kamau and Mariam Kamau in the ratios of 1:1:1:1.

3. The personal representative filed another affidavit on 27<sup>th</sup> June 2008 sworn on 10<sup>th</sup> June 2008. In it he sought to make three clarifications:-
  - a. That one beneficiary called John Karogi Kamau had died on 5<sup>th</sup> May 2007 without spouse or child. He was entitled to 3:1 acres according to the will. It is proposed that this share be

redistributed among four named individuals – Mary, Jane, Nyambura and Muthoni – at the ratios indicated of 1 acre, 1 acre, 0.1 acre and 1 acre respectively.

- b. That Mutahi Kamau had predeceased the deceased. He died on 26<sup>th</sup> October 2001. It is proposed that his share of 4 acres, do devolve upon his wife Gladys Nyatoro Mutahi in trust for his children.
- c. That David Mwaura Kamau is erroneously referred to in the will as David Chege Kamau. The deceased did not infact have a son by the name, David Chege Kamau and reference to the said David Chege Kamau should be read to mean David Mwaura Kamau.
4. There is a further affidavit sworn by the personal representative on 16<sup>th</sup> February 2008 on clarify on the marital status of John Karogi Kamau and Boniface Mutahi Kamau. The said affidavit confirms the contents of the previous affidavit of 10<sup>th</sup> June 2008.
5. There is a further affidavit sworn on 13<sup>th</sup> February 2010 by the personal representative to announce the death of two other beneficiaries – Mariam Wanini Kamau and Joseph Gakuru Kamau and to propose the re-distribution of the shares due to them.
6. I have perused the inventory filed on 24<sup>th</sup> July 2012 signed by all the beneficiaries. As the parties are in full agreement and as the inventory fully conforms with the will of the deceased dated 13<sup>th</sup> February 2002, I will allow the application dated 7<sup>th</sup> September 2007. The estate shall devolve as per the undated distribution schedule filed in Court on 24<sup>th</sup> January 2012.

**DATED, SIGNED and DELIVERED at NAIROBI this 25<sup>TH</sup> DAY OF April, 2014.**

**W. MUSYOKA**

**JUDGE**

**No appearance for the applicants.**