



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT EMBU**

**SUCCESSION CAUSE NO. 344 OF 2012**

**IN THE MATTER OF ESTATE OF MUMU RUTHARI (DECEASED)**

**AND**

**PETER MUMU RUTHARI ..... PETITIONER**

**RULING**

1. This matter concerns the estate of Mumu Ruthari who died on 10<sup>th</sup> August 2002. He leaves behind an estate comprising a land parcel KABARE/NYANGATI/1997. By summons dated 22<sup>nd</sup> May 2013, the Peter Mumu Ruthari, the administrator, moved the Court to confirm the grant issued on 16<sup>th</sup> October 2012. The proposed distribution was that the whole land be divided equally with each beneficiary getting 1.27 acres.
2. At the hearing of the application, one of the beneficiaries Moses Kinyua Mumo protested to the confirmation. He testified on oath that he was not opposed to the distribution per se but that he wanted the distribution stopped so that the other beneficiaries could pay him the money he had spent improving the land. He testified that in 2008, he took out a loan of about Kshs.650,000/= which he used to improve the farm. His case is that he was entitled to some compensation from the other beneficiaries before the property was distributed.
3. His brother, the administrator, denied that there was an agreement between the family members to compensate him in any way. He stated that it is the protestor who had been difficult in ensuring that the deceased's estate be distributed. He urged the Court not entertain the claim.
4. The duty of the Court in confirming grants is distribute the net estate by ensuring that all debts to the estate are paid before the beneficiaries obtain their shares. According to the petition filed herein, the deceased estate did not have any liabilities and none have been claimed by any beneficiary. Moses Mumu agrees that the loan was taken in 2002 after the death of his father. Furthermore, if any improvements were done they were done without the consent or authority of the Court or administrators hence the claim cannot be one against the estate of the deceased.
5. I therefore find that there is no reason to postpone or delay the distribution as there is no claim to the estate. Accordingly the summons for confirmation of grant dated 22<sup>nd</sup> May 2012 is allowed as prayed save that the property of Jackline Wakabari and Joseph Mweke shall be held by Peter Mumu Ruthari and Monica Wanjiru Mumu in their trust and for their benefit in equal shares.

**DATED AND DELIVERED AT EMBU THIS 23<sup>RD</sup> DAY OF APRIL 2014.**

**D.S.MAJANJA**

**JUDGE**