



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
SUCCESSION CAUSE NO.26 OF 2011
IN THE MATTER OF THE ESTATE OF
CHEPSIONGOK MOSONIK – DECEASED

AND

HENRY KIPKOROS TONU IAPPLICANT

VERSUS

KIPKEMOI SOIPROTESTOR

R U L I N G

The ruling is the outcome of the summons for confirmation of grant dated 3rd October 2013 and the subsequent affidavit of protest. Henry Kipkoros Tonui the Applicant took out the summons for confirmation of grant dated 3rd October 2013 where of he proposed for the Estate of Chepsiongok Mosonik, deceased to be distributed as follows:-

- a. **Kipkemoi Soi** - **2.223 Acres (on one part)**
- b. **Henry Kipkoros Tonui** - **0.741 Acres (on the other part)**

But the same shall be shared equally between Henry Kipkoros Tonui, Rebman K. Tanui and Rogers C. A. Tonui i.e.

- **Henry Kipkoros Tonui** - **0.741 Acres**
- **Rebman Kipkurui Tanui** - **0.741 Acres**
- **Roger C. A. Tonui** - **0.741 Acres**

Kipkemoi Soi, hereinafter referred to as the Protestor filed an affidavit of Protest objecting to the mode of distribution proposed by the Applicant. The Protestor instead proposed for the Estate to be shared as follows:

- a. **Kipkemoi Soi** - **Kericho/Kapsuser/1669** **3.246 Acres.**

Who is the only son to the deceased.

GRANDSONS TO CHESONGOK MOSONIK

- b. **Henry Kipkoros Tonui** - **Kericho/Kapsuser/1669** **0.40 Acres**

c. **Rebman Tonui** - **Kericho/Kapsuser/1669 0.40 Acres**
d. **Rogers C. A. Tonui** - **Kericho/Kapsuser/1669 0.40 Acres**

When the dispute came up for hearing, this court directed the same to be disposed of by affidavit evidence and written submissions.

I have considered the grounds set out on the face of the summons and the facts deponed in the affidavits filed for and against the summons. I have further taken into account the written submissions filed herein. The applicant is of the view that the property should be shared equally between the duo as directed by Kiptuiyek Clan elders. It is apparent from the Applicant's submission that his view is that the beneficiaries of the deceased's Estate had agreed on the mode of distribution he had proposed. I am convinced the protagonists herein submitted themselves to the clan elders to offer a solution on how the deceased's Estate should be shared. The schedule of distribution proposed by the Petitioner appears to be fair and in accordance with the arbitration of the clan elders. I find the protest to be without merit. The summons for confirmation of grant dated 3rd October 2013 is allowed as prayed. The Estate to be distributed as proposed in paragraph 6 of the affidavit of Henry Kipkoros Tonui sworn on 3rd October 2013. The disputants are members of the same family hence each should meet his own costs.

Dated, signed and delivered in open court at Kericho this 16th day of May 2014.

J. K. SERGON

JUDGE

In the presence of:

Maengwe for Applicant

Protestor: present in person