



REPUBLIC OF KENYA

IN THE HIGH COURT AT KAKAMEGA

SUCCESSION CAUSE NO: 477 OF 2007

IN THE MATTER OF THE ESTATE OF JOHN MUNYASA RAFIMBI.....DECEASED

AND

GEORGE MATHEW ANYANGA.....PETITIONER

versus

HILDA OHONDA KOKOYO

RUTH WESWA RAFIMBI.....DEFENDANTS

R U L I N G

The late JOHN MANYASA RAFIMBI died on 3/1/1995. His son GEORGE MATHEW ANYANGA filed this succession cause and was issued with Grant of letters of Administration Intestate on 1/9/2007. George filed his application for the grant to be confirmed but his two sisters in law objected to his mode of distribution. The matter went on for oral evidence.

According to George, his father had four sons. Fanuel, Jacob John and himself. Hilda is the wife of John while Ruth is the wife of Fanuel. His brother Jacob was given his land. The suit land plot number MARAMA/SHINAMWENYULI/1120 is to be inherited by the three brothers.

According to his proposed mode of distribution, he would like to get 10 acres, give 3 ½ acres to Hilda and 2.6 acres to Ruth. It is his evidence that his father had divided the land to his three sons and there are boundaries on the ground. HILDA OHONDA KOKOYO testified that she is the wife of JOHN BERI OLENDU who is deceased. She is a daughter in law of the late JOHN MUNYASA RAFIMBI. She had one daughter with her husband. She is the only wife only wife. It is her evidence that the petitioner, George was given another plot this being plot number MARAMA/SHINAMWENYULI/111 measuring 5.5 acres. She produced an official search as proof of that contention. She would like to get 5 ½ acres out of plot number 1120. She lives on the suit land.

RUTH WASWA RAFIMBI is a daughter in law of the deceased. Her evidence is that her late husband was FANUEL RAFIMBI. They had three sons and one daughter. She is also seeking 5 ½ acres from the suit land.

From the evidence on record the only dispute is distribution of the deceased's estate which comprise of plot number **MARAMA/SHINAMWENYULI/1120**. The plot is 17.5 acres as per the official search dated 5/6/2007. It is clear that the petitioner recognizes the rights of his brother's wives to inherit the estate. His only problem is the share for each of his two sisters in law.

Given the fact that the two daughters in law of the deceased are representing the interests of their respective husbands who were entitled to inherit the property, I do find that their claims are lawful. There is enough evidence that their claims are lawful. There is enough evidence that the petitioners also benefited from plot number 111. I see no reason as to why the two defendants should not get their proper share of the estate.

I will therefore proceed and distribute the estate as follows;-

PLOT NO. MARAMA/SHINAMWENYULI/1120

- | | |
|--------------------------|-----------|
| 1. GEORGE MATHEW ANYANGA | 6.5 ACRES |
| 2. HILDA OGONDO KOKOYO | 5.5 ACRES |
| 3. RUTH WASWA RAFIMBI | 5.5 ACRES |

Ruth and Hilda shall hold their shares for themselves and also in trust for their respective children. Each party shall meet his/her own costs.

Dated, delivered and signed at Kakamega this 17th day of September 2014.

SAID J. CHITEMBWE

JUDGE