



**REPUBLIC OF KENYA**

**High Court at Kakamega**

**Succession Cause 123 of 2006**

**IN THE MATTER OF THE ESTATE OF REUBEN LIDONDE..... DECEASED**

**HANNAH SHILAVUKHA ..... PETITIONER/RESPONDENT**

**V E R S U S**

**MOSES LIDONDE ..... 1<sup>ST</sup> OBJECTOR/APPLICANT**

**AGRIPINAH LICHUNGU LIDONDE ..... 2<sup>ND</sup> OBJECTOR/APPLICANT**

**R U L I N G**

The petitioner herein is the widow of the late **REUBEN LIDONDE** who died on the 25.10.2004. The petitioner was issued with a grant on the 27.9.2006. The objectors herein filed this objection stating that they have not been included in the list of heirs of the deceased. The court made a ruling on the 22.2.2011 directing the petitioner to file an application for the confirmation of the grant. An application for confirmation of the grant was filed on the 12.4.2011. Parties agreed to proceed by way of affidavits and submissions.

The main dispute is how the estate should be distributed. The objectors' position is that the deceased had two wives and had demarcated his land in accordance with the number of house. The first wife was to get three acres and the second wife 2 acres. They would like the court to adopt the wishes of the deceased. On her part the petitioner indicate that the deceased had eleven children from his two wives. He left two plots namely- **SOUTH KABRAS/CHESERO/86** measuring 3.2 Hectares and 2170 measuring 0.51 Hectares. According to the petitioner the deceased also had two brothers who are living on plot number 86 and were his dependants. Her proposed mode of distribution is to divide the land equally with each child getting 0.18 Ha. and the two brothers getting 0.55 Ha. each. It is the petitioner's position that the above proposal is what is subsisting on the ground.

The objectors herein are **MOSES LIDONDE** and **AGRIPINA LICHUNGU LIDONDE**. The letter from the area chief, East Kabras Location dated 4.12.2005 indicate that the deceased had two wives and the objector's mother who was the second wife had only one child with the deceased by the **JOSEPH LILUMA LIDONDE**. In the proposed mode of distribution by the petitioner I have noted that there is allocation for **MOSES BUSHURU LIDONDE** and **AGRIPINA LICHUNGU LIDONDE** as well as **JOSEPH LILUMA LIDONDE**. Each of the three beneficiaries are getting 0.18 Ha. which is the same share as the other beneficiaries. I do presume that the above names incorporate the objectors and their brother Joseph Liluma Lidonde. In essence therefore the petitioner has brought the objectors on board. The main portion of land is number 86 which is 3.3 Ha. and therefore bigger than the 5 acres being stated by the objectors.

I do find that the petitioner has taken into account all the deceased's beneficiaries and her mode of distribution is reasonable. The petitioner contends that plot number 2170 was registered in the names of the objectors' mother and Moses Lidonde as per the certificate of search dated 24.8.2007. That being the case the only estate available for distribution that is registered in the deceased's name is plotter number 86 and the petitioner has stated how she wishes to distribute that plot. Each beneficiary is getting an equal share. The application for the confirmation of the grant dated 7.4.2011 is hereby granted as prayed. The deceased's estate shall be distributed as follows:-

**SOUTH KABRAS/CHESERO/86**

- |                              |   |          |
|------------------------------|---|----------|
| a) DAVID MASINZA LIDONDE     | - | 0.18 HA. |
| b) SILVANOS KHAYATI LIDONDE  | - | 0.18 HA. |
| c) ESTHER NYONGESA LIDONDE   | - | 0.18 HA. |
| d) AGNES SHILWATSO LIDONDE   | - | 0.18 HA. |
| e) VICTORIA SHIKHALO LIDONDE | - | 0.18 HA. |
| f) GLADYS BABACHILA LIDONDE  | - | 0.18 HA. |
| g) GETRUDE INDOSI LIDONDE    | - | 0.18 HA. |
| h) MOSES BUSHURU LIDONDE     | - | 0.18 HA. |
| i) VINCENT ANAMI LIDONDE     | - | 0.18 HA. |
| j) AGRIPINA LICHUNGU LIDONDE | - | 0.18 HA. |
| k) SAMSON LUBUKU ANAMI       | - | 0.18 HA. |
| l) JOSEPH LILUMA LIDONDE     | - | 0.18 HA. |
| m) LUKA MUTSAMI ANAMI        | - | 0.18 HA. |

Each party to meet his/her own costs.

*Delivered, dated and signed at Kakamega this 7<sup>th</sup> day of February, 2013*

**SAID J. CHITEMBWE**  
**J U D G E**