



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS

Succession Cause 1514 of 2012 & 379 OF 1977

IN THE MATTER OF THE ESTATE OF AMINA KOMBO HABIB (DECEASED)

IN THE MATTER OF THE ESTATE OF SHEIKHUNA MOHAMED HABIB (DECEASED)

R U L I N G

1. This is a Ruling on the application dated **10th August 2012**. It is brought under **Sections 1A, 1B, & 3B** of the **Civil Procedure Act, Cap 21 Laws of Kenya; Judicature Act, Cap. 8 Laws of Kenya; Section 67 of the Law of Succession Act (Cap. 160) Laws of Kenya; Rule 36 (3) of the Probate and Administration Rules**. The application seeks the following orders:-

1. This application be certified as urgent and proper for adjudication during the High Court vacation.
2. Leave be granted for the hearing during the High Court vacation of the Petition for Letters of Administration *ad colligenda bona* dated **9th August 2012** and filed herewith.
3. The costs of this application be provide for.
2. The application is supported by the following grounds:-
 - a) The Honourable Court do find it fit to consider this application for consideration with respect to petition for letters of Administration *ad colligenda bona* to the Estate of Amina Kombo (deceased).
 - b) The beneficiaries to the Estate of Sheikhuna Mohamed Habib (deceased) desire to participate in the sale of the property L.R. No. 36/VII/533 in which Amina Kombo (Deceased) is listed as a beneficiary.
 - c) It is a requirement of law and conveyancing practice that Amina Kombo as a beneficiary to the Estate Sheikhuna Mohamed (deceased) do provide assent do provide assent for the intended sale transaction of L.R. 36/VII/533.
 - d) It would not be possible for the court to make a full Grant insufficient time to meet the urgency of the intended sale transaction of L.R. 36/VII/533.

3. The application is supported by affidavit of **MOHAMED ABUBAKAR** dated **10th April 2012** and its annextures. .

4. Mr. Muturi for the Applicant submitted that the deceased passed away without issues or surviving spouse, and that the only asset in her estate is **25%** beneficial interest in the estate of her late husband

Sheikhuna Mohamed Habib and the Applicant has been appointed the legal administrator of his estate. The Applicant is petitioning this court for the grant of letters of administration *colligenda bona* to enable the family of the deceased estate participate in the intended sale of the property aforesaid to which the deceased had **25%** interest.

I have considered this application and I allow it as prayed.

5. The second prayer is related to **P & A No. 379 of 1977**. An application was made on **June 2011** for rectification of the Certificate of Confirmation of Grant issued on **30th October 2001**. The intention was to substitute Abubakar Mohamed Habib with the surviving brother of the deceased Mohamed Habib. Erroneously the application resulted into the issuance of new letters of administration. The Applicant now prays that the Certification of Confirmation of Grant dated **30th October 2001** be rectified to bring in **JELANI MOHAMED HABIB** instead of **ABUBAKAR MOHAMED HABIB**.

I have considered this plea and I allow the rectification and direct that **Jelani Mohamed Habib** be substituted for **Abubakar Mohamed Habib** in the certificate of Confirmation of Grant dated **30th October 2001**.

6. I also direct that the description in the schedule of property be updated to current practice and that **LR. No. 36/533/111/Nbi** which is an old description be revised to read as **LR. No. 36/VII/533**.

7. M/s Thuo, who appeared for the Interested Party, supported the application.

8. I grant orders as above.

It is so ordered.

DATED, READ AND DELIVERED AT NAIROBI

THIS 21ST DAY OF SEPTEMBER 2012

E. K. O. OGOLA

JUDGE

PRESENT:

Gathu H/B for Mwangi for Applicant