



**SUCCESSION**

- **Distribution**

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**SUCCESSION CAUSE NO. 18 OF 2010**

**IN THE MATTER OF THE ESTATE OF THE LATE LAWRENCE KABILU M'MUNORU  
ALIAS KABILU M'MUNORU (DECEASED)**

**KAILU LAWRENCE**

**KABILU .....1<sup>ST</sup>  
PETITIONER**

**MARGARET KARAMBU**

**ISAIAH .....2<sup>ND</sup>  
PETITIONER**

**RULING**

Kailu Lawrence Kabilu jointly with Margaret Karambu Isaiah petitioned for grant of letters of administration intestate by a petition dated 8<sup>th</sup> January 2010. Those that survived the deceased were stated in form P&A5 as follows:-

1. *Kailu Lawrence Kabilu – Wife 52 years*
2. *Margaret Karambu Isaiah – Daughter 26 years*
3. *T.K – Daughter Minor*
4. *P. G – Son Minor*

5. ***J. M – Son – Minor***

6. ***Rose Ciomithea – Daughter - Deceased***

A grant was issued to the petitioners on 8<sup>th</sup> July 2010. The petitioners by a summons dated 17<sup>th</sup> January 2011 sought confirmation of grant. In that application, the petitioners seek to distribute the estate of the deceased by holding parcel number *Njia-Cia Mwenda/796* in trust for the minor children listed above and other persons who were not listed as beneficiaries. At the hearing of the summons for confirmation, both P.G and J.M the minor children of the deceased stated to the court that parcel number *Njia-Cia Mwenda/3352* was being distributed to Gichunge Mitu who had purchased it from their mother Kailu Lawrence Kabilu and that the full purchase price had not been paid by Gichunge. Section 82 (ii) of the Law of Succession Act Cap 160 is very pertinent in this case. It provides:-

***“No immovable property shall be sold before confirmation of grant.”***

The petitioners or any one else had no authority or power to sell the deceased immovable estate before confirmation of the grant. It therefore follows that the purported sale of the deceased land to Gichunge Mitu is not recognized in law. It should also be borne in mind that in deciding any issue involving a child the interest of the child should always be paramount. It is for that reason that I order that the grant be confirmed as follows:-

1. ***Parcel No. Njia-Cia Mwenda/3352 to be held in trust by Kailu Lawrence Kabilu on behalf of:-***

(a) ***T.K***

(b) ***P.G***

(c) ***J.M***

***Until all of them have attained the age of 18 years.***

2. ***Kailu Lawrence Kabilu shall have a life interest over Njia/Cia Mwenda/3352.***

3. ***Parcel No. Njia-Cia Mwenda/796 to be held in trust by Kailu Lawrence Kabilu on behalf of:-***

(d) ***T.K***

(e) ***P.G***

(f) ***J.M***

***Until all of them have attained the age of 18 years.***

4. *Kailu Lawrence Kabilu shall have a life interest over Njia/Cia Mwenda/796.*

5. *There shall be no orders as to costs.*

*Dated, signed and delivered at Meru this 31<sup>st</sup> day of March 2011.*

**MARY KASANGO**  
**JUDGE**