



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA

SUCCESSION CAUSE NO. 273 OF 2001

IN THE MATTER OF THE ESTATE OF SOLOMON LUSENO BAKHUYA– DECEASED

BETWEEN

TESINA MUMANANI SHIPAKA.....PETITIONER/RESPONDENT

VERSUS

JANET INZERO.....OBJECTOR/APPLICANT

RULING

1. Solomon Luseno Bakhoya died on 2.10.1990 and by a Petition filed on 27.6.2001, Deresina Mmanani Shipaka sought a grant of letters of administration to his estate and did not indicate her relationship with the deceased but stated that she wanted the letters of administration “for purpose of suing”.
2. The grant was made on 26.6.2001 by *Waweru, J.* and on 11.11.2005, she introduced land parcel number **Idakho/Shivakala/1024** as an asset available for distribution and applied that the land be transmitted to herself solely.
3. On 7.11.2006, Janet Inzero filed a protest to the confirmation of grant and in an Affidavit sworn on the same day, she deponed that she was one of the daughters of the deceased person and she stated that she was entitled to 0.375 acres of the above land and the petitioner was entitled to the same acreage and that one Stephen Maina was also entitled to 0.5 acres as was the wish of the deceased. That the said Maina was the deceased’s nephew and had taken care of him before his death and thereafter gave him a decent burial.
4. In an Affidavit sworn on 23.10.2007, Deresina indicated that the protester had no right to the estate neither did Stephen Maina. That Janet Inzero was not her sister and she did not know one Elizabeth Tsiluma who was said to be Janet’s mother and that Stephen Maina was a stranger colluding with Janet to disinherit her.
5. My view is that although parties had asked me to make a Ruling on distribution on the basis of the

Affidavits on record, clearly I cannot make a fair decision without taking evidence on the relationship, if at all, between the parties and the deceased.

6. Since it is agreed that Deresina is a daughter of the deceased, I will call for oral evidence on the status of Janet Inzero and Stephen Main *vis-a-vis* the deceased before determining whether they are to benefit from the deceased's estate at all.

7. Orders accordingly.

Delivered, Dated and Signed at Kakamega this 14th day of April, 2011.

ISAAC LENAOLA

J U D G E