

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU
Succession Cause 169 of 2001
IN THE MATTER OF THE ESTATE OF MARTIN MUTHURI MBURUGU
(DECEASED)

JOYCE KAIMURI MUTHURI 1ST PETITIONER
MARTHA NCURUBI 2ND PETITIONER

JUDGMENT

The letters of administration were first issued to Joyce Kaimuri Muthuri, now deceased. She was the wife of the deceased. On her demise, that grant was revoked. On an application by the father of the deceased Stanley E. Mburugu the court issued him with a grant which was subsequently confirmed whereby the deceased gratuity was shared equally between Stanley Mburugu and Beatrice Mburugu. It does seem that the deceased gratuity is held by the public trustees. There is some indication that the public trustees holds Kshs. 153,600/=. Subsequently, on an application being made by Martha Ncurubi M'Mburugu, the mother of Joyce Kaimuri that grant to Stanley Mburugu was revoked. Essentially, the deceased died being survived by his wife, now deceased, and two children, namely, Roseline Mwendwa Muthuri and Evalyn Kathambi Muthuri. There was one other child, Moorine Nkatha who has since died. I have seen the birth certificates of both Roseline and Evalyn and it is clear that they indicate the father of both those children to be the deceased herein. Roseline was born on 5th February 1990. She is therefore now 20 years old. Evalyn was born on 12th May 1995. That makes her now to be 15 years old. A lot has happened in this succession cause with those wishing to be appointed administrators exchanging accusations of likelihood to disinherit the children of the deceased. All that is said by those administrators is not material to be considered when deciding how to distribute the estate of the deceased. I am of the persuasion that the best interest of the children of the deceased will be served by ordering that a grant be issued jointly in the names of Roseline Mwendwa Muthuri and Martha Ncurubi M'Mburugu. Further it is best that the funds held by the public trustee be divided equally between the two children of the deceased. The judgment of this court is as follows:-

1. ***I order that a grant be issued jointly in the names of Martha Ncurubi M'Mburugu and Roseline Mwendwa Muthuri.***
2. ***I order that such a grant be confirmed as follows:-***
 - (a) ***That the funds held by the public trustee in respect of the estate of Martin Muthuri Mburugu, deceased, be divided equally between Roseline Mwendwa Muthuri and Evalyn Kathambi Muthuri.***
 - (b) ***I order the public trustee to issue a cheque for half of the amount held on behalf of the estate of Martin Muthuri Mburugu and that cheque to be in the name of Roseline Mwendwa Muthuri.***
 - (c) ***I order that a cheque for the balance be issued in the name of Martha Nchurubi Mburugu to hold in trust for Evalyn Kathambi Muthuri until she attains 18 years old***
3. ***I direct that this order be extracted and be served upon the public trustee to ensure that the judgment of this court is implemented.***
4. ***There shall be no orders as to costs.***

Dated and delivered at Meru this 28th day of May 2010.

MARY KASANGO
JUDGE