



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU
Succession Cause 181 of 1999
IN THE MATTER OF THE ESTATE OF B M' alias M M (DECEASED)

L N T APPLICANT

VERSUS

G G PETITIONER/RESPONDENT

RULING

The petitioners, G K (now deceased), and G G petitioned for grant of letters of administration intestate in this estate. At present, the only administrator surviving is G G. The only immoveable property belonging to this estate was *[particulars withheld]*. The grant was confirmed for the first time on 1st August 2002. It will become clear at the end of this ruling why I say that it was confirmed for the first time. When it was confirmed at that time, various beneficiaries were awarded their share of that parcel of land. On passing away of G K, deceased, and his two wives, G sought to have K share of the estate distributed amongst his children. K share was *[particulars withheld]*. The court granted an order for the rectification of the grant as sought by G on 5th May 2008. That parcel of land was distributed amongst the children of K it is to be noted that some of the children were minors and their shares were held for them in trust. Rather than the court issuing a grant reflecting all the assets of the deceased including the portions that had been rectified, what actually happened after rectification was that another confirmed grant was issued reflecting only distribution of parcel number 2812. The 2nd confirmed grant distributed that parcel of land as follows:-

[particulars withheld]

- 1. M M K – 1 ¾ acres.**
- 2. C K M – 14 acres.**
- 3. P M K, D K, F N and C M K (in trust for themselves and their minor sisters K M and J K until they attain the age of majority) 1 ½ acres.**

Now the administrator, G, has again approached this court with yet another application seeking to have the land which was held in trust as can be seen above to be further distributed. I have gone through this file and I have come across some depositions by the sister of G to the effect that G has not been trustworthy in his administration of this estate. By the present application, which is a Chamber Summons dated 18th May 2010, G seeks the authorization of this court to share out new parcels which one would presume originally came from parcel number [particulars withheld] to the children of K who have now attained the age of 18. G has proposed that the grant yet again be rectify as follows:-

- 1. [Particulars withheld] measuring less than ¼ of an acre to P M K, F N and C M K, to hold jointly and in equal shares.**
- 2. [Particulars withheld] to get 3 titles to be registered as follows:-**
 - (a) 1st portion – P M) Approximately ½**
 - F N) acres to hold**
 - C M) jointly in equal shares**
 - (b) 2nd portion – D K – Approximately ¼ of an acre.**
 - (c) 3rd portion – To minor sisters (K M & J K) to hold jointly and in equal shares, and their sisters P M K, F N and C M K to hold for them until they attain 18 years.**

Gerald, the administrator, has been, in my view, been the cause of what seems to be confusion in the administration of this succession cause. Even though the grant was first confirmed on 1st August 2002, this administrator has refused to let go his grip over this estate by continually distributing the estate even after 8 years after confirmation of grant. If what is stated by one of his sisters, LN T in her affidavit dated 13th October 2009 can be believed, the administrator is said cannot be trusted. He is said to have sold some portions of the deceased property on getting registered in transmission. He has sold those portions to parties who were not beneficiaries of this estate. At this moment, with a view to stopping the confusion that has been created by the administrator, I decline to rectify the grant as sought in the Chamber Summons dated 18th May 2010. The parcels number 2812 which was to go to the children of K, deceased and which is held in trust for them until they reach the age of 18 should be registered as such, that is, it should be registered as being held in trust. I order that there should be no further distribution of that

portion until all the children of K have attained the age of 18. On attaining the age of 18, the trust will then be dissolved and that portion will be shared equally. I hereby dismiss the Chamber Summons dated 18th May 2010 with no orders as to costs.

Dated and delivered at Meru this 2nd day of July 2010.

MARY KASANGO

JUDGE