



## SUCCESSION

- Distribution

**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT MERU  
SUCCESSION NO. 47 OF 1990**

**IN THE MATTER OF THE ESTATE OF M'THIRANGE THIRANGE (DECEASED)**

**JULIA KALANGI MBAABU ----- PETITIONER  
- VERSUS -  
JOYCE KOOLO MBAABU ----- OBJECTOR**

**JUDGMENT**

The deceased was married to two wives. The 1<sup>st</sup> wife is Julia Karangi Mbaabu. The 2<sup>nd</sup> wife is Joyce Koolo Mbaabu. This succession has been pending before court for a long time because of various interlocutory applications. In my view those applications were not necessary for the just resolution of this dispute. By a consent recorded before court on 16<sup>th</sup> February, 2010 the parties agreed to submit in writing for the court to decide on distribution of the deceased estate. There are three properties in this estate. These are: ITHIMA/NTUNENE/31, ITHIMA/NTUNEME/1395 and ITHIMA/AKIRANG'ONDU/538. According to Julia, her children are; Jacinta Karimi, Jeniffer Kanocia alias Rosemary Maiti. According to Joyce her children are; Japhath Gitonga, Geoffrey Mutuna, Mwanga, Salesio Mutura and Margaret Mukokinya. According to Julia the distribution of the deceased estate should be as follows:

**(a) Parcel No. ITHIMA/NTUNENE/31 two acres to be given to Lawrence Meeme the balance of four acres to be share between her and Julia.**

**(b) Parcel No. ITHIMA/NTUNENE/1395 and ITHIMA/AKIRANG'ONDU/538 be given to her.**

I find the suggested distribution by Joyce to be unfair. This is because in her previous affidavit dated 3<sup>rd</sup> March, 2006 she accepted that Julia resides on parcel no. 31 and she on the other two parcels. In her written submissions Joyce proposed contrary to that previous deposition. Her proposal on parcel No. 31 is that it be given to Julius Meeme who is now deceased. She suggests that the remainder four acre be shared between her and Julia while she retains the other two portions. Firstly, I wish to state that Lawrence Meeme in his lifetime tried to file an objection out of time in this cause. That was by chamber summons dated 12<sup>th</sup> June, 2001. That application was dismissed by the ruling 28<sup>th</sup> June, 2001. Lawrence did not appeal against that dismissal. Distribution to his estate cannot therefore be considered. The court in dismissing his application to objection to the grant been issued also rejected Lawrence's claim as a beneficiary. I am of the view that justice will best be served by distributing the estate by allocating to each wife the land they already occupy. I therefore order as follows;

**(i) That a grant be issued in the joint names of Julia Kalangi Mbaabu and Joyce Koolo Mbaabu.**

**(ii) That grant shall be confirmed as follows:**

**(a) Parcel NO. ITHIMA/NTUNENE/31 to Julia Kalangi Mbaabu absolutely**

**(b) Parcels NO. ITHIMA/NTUNENE/1395 and ITHIMA/AKINRANG'ONDU/538 to Joyce Koolo Mbaabu absolutely.**

**(iii) The Deputy Registrar of this court is granted leave to sign any document, which any of the administrators fail to sign in order to put into effect the judgment of this court.**

**(iv) There shall be orders as to costs.**

Dated at Meru 22<sup>nd</sup> October, 2010.

**MARY KASANGO  
JUDGE**