



rr1. Family Law

2. Law of Succession Cap 160 Laws of Kenya.

3. Application for confirmation of grant 25th March, 2009

a). Male adult aged 95 years old at time of death on 25th February, 1998.

b). Applied for grant 9th November, 1997.

- Esther Chepkoech Tegutwo

Form 80

Form 11

Form 12

c) Kenya Gazette dated 9th November, 1997.

d) Form P&A. 30 now received.

e) P&A. 41 signed

27th May, 2002 Visram J but not released to administratrix nor sealed.

f) Years 2006 (4 years later)

Application 12th October, 2006 that Esther Chepkoech Tegutwo has passed away aged 86 years old in 2004 due to cardiac failure.

g) P&A. 57 later registered with lands department.

h) Application granted Musinga J 19th October, 2006 P&A. 41 issued to James Kiprono Bii Kipkurui Bii Bosuben.

i) 29th November, 2007 application for confirmation of grant further heard 22nd October, 2009

and discrepancy cleared

4. **Held** – Letter of grant intestate to issue.

5. **Case Law** - Nil

6. Advocates

J.J. Onyango advocate from M/S Jamsubah Onyango & Co. advocate instructed to hold brief for M/S V.K. Biii & Co. advocates for the Petitioner/Applicant - present

IN THE MATTER OF THE ESTATE OF THE LATE

WILLY KIBII TEGUTWO DECEASED

AND

ELIZABETH CHEPKOECH TEGUTWO PETITIONER

RULING NO. 3

Final Ruling of Court on confirmation of grant intestate

I: Procedure

1. Under **rule 41(2)** of the Probate and Administration rules the court is permitted at the stage of confirmation of grant to either confirm or refer the matter back for

“Further consideration by the applicant or adjourn the hearing for further evidence to be adduced or make any other order necessary for satisfying itself as to the expediency of confirming the applicant as the holder of the grant or concerning identities, shares and interest of the persons beneficially entitled and any other issue which has arisen including the interpretation of any rule”

2. On 14th July, 2009 this court referred the matters back to the applicants for consideration on certain irregularities on the application for confirmation of grant.

3. On 22nd October, 2009 the same was again deferred.

4. The discrepancy according to there advocate for the applicant has now been cleared. This being

i). The notice of appointment of advocates to comply with form P&A 63.

ii). Form P&A 30 from the central registry that the grant has not been issued elsewhere as a duplicity.

iii). List of survivors on form P&A 5 must disclose their names, ages and relationship to the

deceased.

iv). **The original petitioner Esther Chepkoech Tegutwo was described as Elizabeth Chepkoech Tegutwo in the Kenya gazette.**

v) **The only asset had a loan of Kshs. 15,000/= charged to the property.**

5. The applicants returned to court and clarified and ascertained the names of the survivors disclosing that there are indeed two houses in the deceased's estate.

6. The names of Elizabeth was an error by the registry of the High Court, when the cause was gazetted. It should have read Esther Chepkoech Tetugwo.

7. The charge on the asset- land of Kshs. 15,000/= had now been formally discharged (1st September, 2009).

8. The parties now prayed for the confirmation of grant.

III: Confirmation of grant of letters intestate

9. The deceased Willy Kibii Tegutwo aged 95 years old on 25th February, 1998 when he passed away at Nakuru due to cardio pulmonary arrest due to cerebral atrophy.

10. His only asset is land parcels Kericho/Chemoiben/488 comprising of 17.0 ha.

11. The shares of the survivors beneficially entitled to the estate was ascertained by the application dated 25th March, 2009.

12. Survivors

Name

Shares

ELIZABETH CHEPKOECH TEGUTWO error

ESTHER CHEPKOECH TEGUTWO – widow now deceased – Nil

a) Raymond Kipkoech Bii (son) (56years) Kericho/Chemoiben/488 1.78 acres

b) David Kipngetich Bii (son) (61years) Kericho/Chemoiben/488 1.13 acres

c) Agnes Chepngetich Bii (daughter in law of John

Kibet Bii (now deceased) (39 years) 1.62 acres

d) Peter Cheruiyot Bii (son) (42 years) 1.70 acres

e) Graces Chepkoskei Tegutwo (daughter) (48 years) 2.43 acres

- | | |
|---|------------|
| f) James Kiprono bii (son) (63 years) | 0.85 acres |
| g) Mary Chelangat Belyon (daughter in law) (65 years) | 0.73 acres |
| h) James Kiprono Bii and Grace Cheptonui Bii | unknown |
| i) Wilson Kiprotich Bii (son) (81 years) | 3.34 acres |

13. I note there are two persons James Kiprono Bii and Grace Cheptonui Biii whose relationship to the deceased is unknown and both are not on the first list of survivors. They were allocated 0.08 and 3.34 acres respectively each (*total 3.42 acres*). This will be deferred for further clarification.

14. The grant is confirmed for (a-g), (i) named above.

15. Formal Mention of 19th November, 2009 for further clarification by the applicants **rule 41(2)** of the P&A rules.

DATED this 23rd day of October, 2009 at **KERICHO**

M.A. ANG'AWA

JUDGE

Advocates

J.J. Onyango advocate from M/S Jamsubah Onyango & Co. advocate instructed to hold brief for

M/S V.K. Biii & Co. advocates for the Petitioner/Applicant - present