

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU

Succession Cause 173 of 2003

IN THE MATTER OF THE ESTATE OF MISHECK GICHOVI MUNDWARIRIA

AND

MARY GICUKU NYAGA.....APPLICANT

VERSUS

BISILIA WANJOVI MESHACK.....PETITIONER

RULING

The application for confirmation of grant is opposed by Ann Njoki Gichovi first administrator and Wilson Njeru a beneficiary and creditor of the estate of the deceased his father. One of the grounds was that one WAWIRA MBURU (MBURA) was not included in the list. This is not correct but it is clear she was not allocated any inheritance. The protesters filed the proposal they think is to achieve fair distribution. The protest was heard in open court. PW1 first protester gave evidence she disclosed that the second protester Wilson Njeru is her son. She said she relied on what she had sworn in her affidavit of protest. She further stated that she supported her sons claim that she be given a stall at Kibugu Market. She also said she wanted the estate to be divided among the two houses. Her mother died during the pending of this Succession Case. Also that Wawira Mbura is a wife of deceased brother in the house of Anna Njoki. Protester No. 2 also gave evidence son of deceased and Ann Njoki. He was claiming stall No. 1 Kibugu Market on ground he had paid Shs.30,000/= which he paid to purchase building materials to build the deceased widows house. He also paid Shs.5000/= for hospital bills of the deceased brother. The payment was on agreement, agreement of the mothers. He claimed half the stall. That 2nd protester gave some money was admitted by petitioner but she proposed that a refund can be made. The stall can be sold to raise money for refund. Petitioner agreed that the widow of Geoffrey WAWIRA MBURU should be allotted her dead husband's share. It is clear that the deceased at the time of death was survived by two widows one of whom has since died. There is no evidence as to which of the beneficiaries are her children.

It is my view that the proposed distribution as set out in the Schedule to the affidavit of Ann Njoki Gichovi is the proper one and it follows the law. I therefore confirm the grant and order the certificate to issue. The distribution shall be in accordance with paragraph 1 thereof. I also find that the claim of 2nd protester Wilson Njeru is not proved. The stall No. 1 Kibugu Market shall be sold to raise funds to pay him Shs.35,000/=. The remainder of funds if any shall go towards the administration costs of the estate.

Orders are granted accordingly.

Dated this 13th February, 2008. .

J. N. KHAMINWA

JUDGE

13/2/2008

Khaminwa – Judge

Njue – Clerk

Mary Gicuku – present

Wilson Njagi – present

Read in open court.

Ann Njoki is said to be unwell but son Wilson is present.

J. N. KHAMINWA

JUDGE