



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT EMBU

Succession 242 of 2002

IN THE MATTER OF THE ESTATE OF CAXTON MURAGE KIRAGU..DSD

AND

ASSENATH WANJIRA NYAGA.....PETITIONER

versus

A. MUNYI KIRAGU.....OBJECTOR

JUDGMENT

The Petitioner Assenath Wanjira Nyaga petitioned for a grant of letters of Administration Intestate in the estate of Caxton Murage Kiragu. The Petition was filed on 10/9/2001 and in support thereof she swore an affidavit showing that the deceased did not have any survivors and that she was his sister.

On 7/11/2001 an objection to the making of a grant to the petitioner by A.Munyi Kiragu was filed on the ground that he is a brother to deceased and therefore a proper person to take up the grant. It is to be noted that the petitioner did not disclose the other relatives of deceased as shown in the Chief's letter exhibited by protester and dated 18/9/2003 and other survivors as testified by witness- Titus now deceased who has left a widow and family.

I have perused the evidence on both sides. It is clear the petitioner is on the wrong. She failed to give to court full information of survivors. In her evidence she claims inheritance for herself. An administrator of estate stands as a trustee for the benefit of all lawful beneficiaries. I am satisfied that the petitioner in this case is not a suitable person to act as trustee of other beneficiaries. The protester has also made claims to the estate and therefore I find the grant should not be issued to him alone although he has cross petitioned. The proper order is to issue grant to two persons to avoid further disputes arising. At this stage the important order is to have administrators appointed and the issue of distribution of assets shall be dealt with at the time of confirmation of grant.

I therefore make order that the petitioner's petition is hereby dismissed. A grant of letters of administration shall issue to the protester A. Munyi Kiragu jointly with Cathrine Mutitu Titus Njiru the daughter of the deceased brother Titus of deceased Caxton Murage Kiragu. Such grant shall be confirmed after expiration of 30 days from the date hereof on application by the Administrators.

It is so ordered.

Dated this 12th February, 2008.

J. N. KHAMINWA

JUDGE

12/2/2008

Khaminwa – Judge

Njue – Clerk

Both parties present in person

Read in their presence in open court.

J. N. KHAMINWA

JUDGE