

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

Succession 314 of 2002

IN THE MATTER OF THE ESTATE OF NGOROI KIBU.....DECEASED

AND

PATRICK NJUE MBORA.....PETITIONER

JULIA GICUKU MBORA.....OBJECTOR

RULING

Summons dated 5/6/2007 seeks review of orders of court made on 14/2/2007. The application is supported by affidavit of Julia Gicuku Mbora being one of the daughters and co-administrator of the estate of deceased herein. She was a protester against the confirmation of grant herein.

The ruling of court which she seeks to review ordered Patrick Njagi Mbora a grandson of deceased to inherit one acre and his unmarried mother to be given 0.25 acres. The complaint is that only his mother Charity Kairu Mbora should take any inheritance not her son the said Patrick Njagi Mbora the grandson of deceased. Now the request is to take away the portion distributed to Patrick Njagi Mbora because his mother has also inherited.

I have perused the record again, I notice in the Form 9 he is simply described as grandson of deceased. In the evidence of Protester she simply said the said Patrick Njagi is grandson being son of her sister Charity. Charity herself is recorded as saying Patrick Njagi is a relative. Now Julia the protester says that the grandson should not inherit because his mother has inherited a portion.

In my view there is an error. The order of inheritance of kindred is set out under Section 29 Cap 160. It is therefore necessary to disinherit the grandson as no special reason was advanced to include him while his mother also inherits. The one (1) acre allocated to Patrick Njagi Mbora the sone of Charity Kairu Mbora shall now be distributed among the beneficiaries, namely Julia Gichuku Mbora, Charity Kairu Mbora and Asunta Njura Mbora the survivors Ileri Ibrahim deceased survivor on equal shares. The application is allowed and the order is reviewed accordingly. The grant was typed in the name of one administrator. This is a typographical error and the same shall be corrected,

It is so ordered. No costs are awarded.

Dated this 12th February, 2008.

J. N. KHAMINWA

JUDGE