

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

SUCCESSION CAUSE 73 OF 2002

IN THE MATTER OF THE ESTATE OF RICHARD MURATHI NGARI ...DCD

VERSUS

JEDIDAH MUTHU NGARI.....PETITIONER

NDAMBIRI MURATHI.....PROTESTER

JAMLICK KIURA MURATHI.....OBJECTOR

RULING

A grant of letters of Administration intestate in the estate of Richard Muthui Ngari was issued on 15/3/1999 to Jedidah Muthui Ngari and Jamlick Kiura Murathi.

When application for confirmation of grant came to pass Jamlick Kiura Murathi filed a protest on the ground that:-

1. he was entitled to inherit his father's estate.
2. that liabilities have not been settled
3. that not all his father's assets have been disclosed.

On the hearing date fixed in court before all parties only the protester appeared.

Upon hearing his evidence it is clear the application for confirmation of the grant is not properly made. It is the net intestate that is to be distributed measuring after liabilities have been settled and in case the deceased had two wives whether dead or alive the provisions of section 40 Succession Act must be followed.

I dismiss the application for confirmation. The parties are at liberty to make another application correctly in accordance with the law.

Dated this 22nd April, 2008.

J. N. KHAMINWA

JUDGE