



REPUBLIC OF KENYA

IN THE HIGH COURT AT KERICHO

Succession Cause 116B of 2001

IN THE MATTER OF THE ESTATE OF THE LATE KIPKOECH ARAP LANGAT

THROUGH

DAVID KIBIEGO KOECH1ST PETITIONER

SIMON KIMUTAI2ND PETITIONER

RAEL CHEPNGETICH LANGAT 3RD PETITIONER

AND

SARAH C. LANGAT OBJECTOR

JUDGMENT

Kipkoech Arap Langat (*hereinafter referred to as the deceased*) died on 23rd July 2000. On 14th August 2001, David Kipyegon Koech, Simon Kimutai Koech and Rael Chepngetich Langat (*hereinafter referred to as the petitioners*) filed a petition in this court seeking to be granted letters of administration intestate in respect of the estate of the deceased. On 30th November 2001, the petitioners were issued with the said letters of administration. On 31st July 2003, the petitioners applied for the grant of letters of administration issued to them to be confirmed. Sarah C. Langat (*hereinafter referred to as the objector*) objected to the confirmation of grant on the basis that the manner which the petitioners proposed to distribute the estate of the deceased was inequitable.

The objector was aggrieved by the mode of distribution of the deceased estate proposed by the petitioners. The petitioners and the objector appeared before this court and sought directions on the best way to determine the dispute between the petitioners and the objector. This court noted that there was no dispute as regard who the beneficiaries of the deceased were. Although the objector listed her married daughters as beneficiaries of the estate of the deceased, since the parties to these proceedings had agreed to distribute the properties of the deceased in accordance with the three households of the deceased, such inclusion of the objector's married daughters, was therefore not an issue in dispute. There is no dispute as what constitutes the properties that comprise the estate of the deceased.

However, evidence was placed before the court which showed that some of the properties were sold by the deceased before his death. Although claims were made to the effect that the deceased had given some of the properties to some his beneficiaries during his lifetime, this court will take in to consideration the overall equity in the distribution of the deceased estate to the three households of the deceased. If it

appears to the court that the alleged gift by the deceased would result in unfair distribution of the estate of the deceased, necessary adjustments would be made in other properties. The court directed the petitioners and the objector to each file their preferred mode of distribution of the estate of the deceased. The petitioner and the objector duly complied with the directions of this court, and filed their proposals as to distribution. The parties agreed to dispose off the dispute involved in the distribution by making oral submissions before court.

It is on the basis of the affidavits on distribution that were filed in court and the submissions made that this court rendered its decision. As earlier stated in this judgment, the deceased was married to three wives, namely Sarah C. Langat (the 1st house), Pauline C. Langat (2nd house) and Rael C. Langat (3rd house). Sarah Langat was blessed with the following children:

- (a) R M
- (b) D K
- (c) A N
- (d) M C
- (e) E C
- (f) P C
- (g) S K
- (h) J C

Some of the daughters of Sarah are married. Pauline Langat was blessed with following children:

- (a) S K
- (b) D K
- (c) C K
- (d) J K
- (e) R K

Rael Langat was blessed with the following children:

- (a) M C
- (b) B K
- (c) C L
- (d) C L
- (e) M K
- (f) V C

As stated earlier in this judgment, the parties to these proceedings agreed to distribute the properties that comprise the estate of the deceased in accordance with the three households. That is the mode of

distribution that shall be adopted by this court. Before distributing the estate of the deceased, I will first remove from consideration the following properties which were either sold by the deceased during his life time or were jointly by the deceased and others. The said properties are:

- (a) Kericho Municipality – 631/766 sold to Kihushbir Kaur Chadha
- (b) Kericho Municipality – 631/473 sold to Joseph Kimani
- (c) Kericho Municipality - 631/55 sold to Henry C. Langat
- (d) Kiplelji plot No. 6 – sold to Martha Sigei.

These parcels of land shall be transferred to the said purchasers. Parcel No. Kericho Municipality – 631/V/64 was jointly owned by the deceased with John Kimetto, Kipyegon Chirchir and Aloice Chirchir. I hereby direct that the share of said property that is owned by the deceased's estate shall be valued and thereafter the same shall be sold and the proceeds therefore distributed equally between the three houses of the deceased. After the valuation, whoever in the three houses is interested in retaining the share of the deceased, shall at liberty to pay off the other two houses.

The petitioners were not opposed to the objector (1st house) inheriting the following parcels of land:

- (a) Kericho Municipality – 631/3/36
- (b) Kericho Municipality – 631/V/41
- (c) Kericho Municipality – 631/442
- (d) Kericho Municipality – 631/452

The 1st house shall also get the following properties:

- (a) Kericho/Nyamanga/479 – 10.2 acres
- (b) Kericho/Nyamanga/456 – 23 acres
- (c) Kericho/Nyamanga/65 – 7.5 acres
- (d) Kericho/Nyamanga/455 – 7.9 acres
- (e) Roret Market plot No. 6
- (f) Kericho/Nyamanga/137 – 8.0 acres
- (g) Kericho/Kipkelion /594
- (h) Kericho/Nyamanga/42
- (i) Kericho/Nyamanga/3
- (j) Litein plot No. 686 (the share owned by the deceased in partnership with others.)

The 2nd house shall get the following properties:

- (a) Kericho Municipality – 631/299

- (b) Kericho Municipality – 631/IV/56
- (c) Roret Market plot No.4
- (d) Mogogosiek plot No. 14
- (e) Londian plot No. 61
- (f) Kericho/Roret/336 – 5.5 acres
- (g) Kericho/Roret/13 – 5.6 acres
- (h) Kericho/Roret/11 – 0.75 acres
- (i) Kericho/Roret/1032 – 3.4 acres
- (j) Kericho/Roret/1044 – 2.0 acres
- (k) Kericho/Roret/207 – 7.8 acres
- (l) Kericho/Londiani/75 – 7.5 acres
- (m) Kericho/Kipchimchim/659 – 3.25 acres
- (n) Kericho/Kipchimchim/2014 – 1.7 acres
- (o) Kipkelion Market Market plot No. 4
- (p) Kericho/Nyamanga/68 – 5.5 acres
- (q) Kipkelion Market plot No. 18

The 3rd house shall inherit the following properties:

- (a) Kericho Municipality – 635/42/IV
- (b) Kericho Municipality – plot No. 32
- (c) Kiplelji market plot No. 18
- (d) Kericho Municipality – 631/714
- (e) Kericho/Londiani/42 – 2 acres
- (f) Kericho/Kabartegan/564 – 0.13 acres
- (g) Kericho/Londiani/100 – 7.5 acres
- (h) Kericho/Roret/3 – 12.9 acres
- (i) Kericho/Roret/29 – 6.5 acres
- (j) Chemosit Market plot No. 6
- (k) Kericho/Nyamanga/124 – 1.4 acres

- (l) Kericho/Nyamanga/813 – 3.5 acres
- (m) Roret Market plot No. 32
- (n) Kipkelion Market plot No. 6
- (o) Roret Market plot No. 9
- (p) Kericho/Nyamanga/479

There is a property at plot No. 29 Roret Market. It is a substantial and valuable property. This property shall be shared equally between the three houses that comprise the beneficiaries of the estate of the deceased.

As regards parcels No. Kericho/Kapsuser/ 1618, Kericho/Kapsuser/1801 and Kericho Kapsuser/2080, it shall be distributed equally between the three houses. For avoidance of doubt, each of the three parcels of land shall be valued upon which a 1/3 of the value of each property shall be inherited by each house. In the event that the beneficiaries are willing to trade off the values of each of the said property, they will at liberty to do so and thereafter seek approval of the court.

As regard the shares that were owned by the deceased in NIC Bank, Barclays Bank, Brooke Bond, Credit Bank, Safari Hotel and Ribot, the said shares shall be distributed equally between the three houses. In the event that there shall be difficulty in the distribution of the said shares, the same shall be sold and the proceeds therefrom distributed equally between the three houses. Similarly the tea bonuses received before the distribution herein shall be distributed equally between the three houses.

As regard the machinery motor vehicle registration No. KAA 038 R Peugeot 504 shall be inherited by the 2nd house. Likewise they shall inherit the Massey Ferguson Tractor registration No. KAA or KAB 138L. They shall similarly inherit the farm implements and the weighing machines. The 3rd house shall inherit the Isuzu Lorry, water pump, power generator and plat form scales.

As regard the money in the bank, since the objector and the 2nd house have already received their share, I will award the sum of KShs. 482,621/= to the 3rd house. In the event that there shall be any property of the deceased estate that shall remain undistributed, the beneficiaries of the estate of the deceased shall be at liberty to apply. For the properties that were to be valued, and thereafter distributed, in the event of disagreement, the aggrieved party shall be at liberty to apply to the court for further directions and resolution of the dispute.

Since this dispute involved family members, there shall be no orders as to costs.

DATED at Kericho this 22nd day of September, 2008.

L. KIMARU

JUDGE.