

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Succession Cause 897 of 2007

IN THE MATTER OF THE ESTATE OF MUHU KAMAU (DECEASED)

MARY WANINI KAMAU OBJECTOR/APPLICANT

VERSUS

GEORGE BORO MUHU

OBADIA KARIUKI CHEGE RESPONDENTS

RULING

The Objector, Mary Wanini Kamau, filed this summons for revocation of Grant dated 10.4.2008. She sought that the grant of letters of administration issued to the Respondents who are administrators of the estate of Muhu Kamau (deceased), on 11.10.2007, be revoked and a new grant be issued to her. The ground for seeking revocation, in summary was that the administrators, George Boro Muhu and Obadiah Kariuki Chege, were not proceeding in their duties diligently and according to law.

In her testimony in court, it turned out that the deceased had three pieces of land at Rironi, Muranga and Mahela Rironi is the ancestral land while the others were purchased pieces. The two administrators are two only of the nine sons of the deceased. In their distribution of the pieces of land, the administrators decided to give each of the nine sons or their dependants, an equal piece of each of the three pieces of land. In the process of subdividing the Rironi piece of land, the same being L.R. Limuru (Rironi) 135, into nine equal pieces, an existing residential premises of the objector fell on one of the divided pieces while the grave of her deceased husband fell on another subdivision. The portion on which the grave lay had unfortunately been allocated to one Lucy Wachuka Nyanjui by the administrators. The problem that followed is that the objector decided to keep both her allocated portion and the other portion holding her deceased's husband's grave although it had been allocated to Lucy Wacuka Nyanjui.

In her evidence in court she admitted that she no longer was interested in changing representation. She also admitted that if she indeed was left to keep the two portions in Rironi, as she proposed, Lucy Wacuka Nyanjui would miss her share there. But she argued that her allocated share, at Mahela should be given to Lucy Wacuka Nyanjui so that she can herself keep two portions at Rironi.

I have considered the evidence and particularly, the objector's proposal. I observed that there was one other widow of the sons of the deceased whose name is Jedida Mogure Moni, who also faced a similar predicament as the one that faced the objector dependant. Jedida's deceased husband was buried on one of the nine subdivisions finally allocated to another dependant. Jedida on her part, did not claim the portion holding her husband's grave because she was able to understand and no similar dispute as the one created by the objector arose.

In my considered opinion, the objector's proposal above in the circumstances of this case, is not satisfactory. It contradicts the proposal for distribution made by the administrators/respondents based on the family agreement. It is selfish and unreasonable in the circumstances of the case. I reject it and confirm the administrators' proposal which is the one accepted by the eight out of the nine sons of the deceased.

In the above circumstances I find the objection herein unreasonable and unmerited. I dismiss the summons for revocation and order that the objector should, without delay, handover to Lucy Wacuka Nyanjui, the latter's portion on L.R. No. Limuru/Rironi/135. I also order her not to interfere with the distribution of the estate as proposed and arranged by the respondents/Administrators which I hereby now confirm.

On the above basis, the administrator should proceed to apply for the confirmation of the grant of letters issued to them on 11.10.2007 making sure that distribution is as proposed by them and confirmed by this court in this ruling. Orders accordingly.

Dated and delivered at Nairobi this 5th day of November, 2008.

D.A. ONYANCHA

JUDGE