



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU

Succession Cause 235 of 1998

IN THE MATTER OF THE ESTATE OF MUSA KIRIMA KITHURE

JULIUS KITHINJI M'IKIRIMA.....1ST PETITIONER

VERSUS

JULIETA NDURU ROBERT.....2ND PETITIONER

RULING

This ruling relates only to the distribution of the intestate property of the deceased, Musa Kirima Kithure, consisting single parcel of land known as Abothuguchi/Gitie/408, measuring approximately 4.4. Hectares or 10.87 acres.

The two joint administrators, Julius Kithinji M'Ikirima(Julius) and Julieta Nduru Robert(Julieta) have filed separate proposals suggesting the ratio of distribution to the eight beneficiaries. The two proposals do not agree and it was agreed by consent of counsel for both parties that the court proceeds to order distribution. The proposal by Julieta suggests distribution as follows;

1. Evangeline Kariungi – 1 acre
2. Florence Nyagera Kirima - 1 acre
3. Sarah Gakii - 1 acre
4. Robert Gitobu Mukindi - 1 acre
5. Erastus Kanini - 1 acre
6. Aireen Kanini - 1 acre
7. Stella Gachungi - 1 acre
8. Julius Kithinji M'Ikirima - 3.87 acres.

On the other hand Julius proposal is as hereunder;

1. Geoffrey Kooro Kithinji - 1 ½ acres
2. Charles Gituma - 1 ½ acres
3. Henry Muthui - 1 ½ acres
4. Gerald Gikunda - 1 ½ acres
5. Tarasira Mpandi - 1 ½ acres
6. Henry Gitonga Mburia - 1 ½ acres
7. Japheth Mburugu Mutemi - ½ acre
8. Margaret Gatabi - 1 acre
9. Julius Kithinji M'Ikirima - 1.87 acres

Two issues stand out from the two lists of beneficiaries filed by Julieta and Julius. First, the only common name in the lists is that of Julius. The rest are persons whose full identity and relationship with the deceased have not been disclosed. It is further observed that the initial affidavits of Marieta Mwari M'Ikirima, to whom the grant of letters of administration was issued, provide only her name and that of Julius as the only surviving beneficiaries.

Similarly Julius in an affidavit in support of his application dated 12th June, 2001 was categorical that the deceased, Musa Kirima Kithure had two wives and was survived by seven daughters and himself (Julius). That, of the seven daughters, five are married and two are living on the property, Abothuguchi/Gitie 408. That affidavit does not provide the names of the seven daughters. However, in his proposal, Julius has listed 9 beneficiaries including himself but excluding Julieta. Of the 9 beneficiaries, it is clear, at least from their names, that only two are ladies.

It is also of interest to note that in his application for confirmation of the grant, Julius sought orders vesting the said Abothuguchi/Gitie/408 to himself without disclosing the existence of the other beneficiaries.

The second point is that the property earmarked for distribution is estimated to measure 10.89 acres, yet from Julius' proposal this is exceeded.

To explain these anomalies it is ordered that all the beneficiaries listed in the two proposals to appear before the court on 29th March, 2007 with their identification documents.

DATED AND DELIVERED AT MERU THIS 8TH DAY OF JUNE 2007.

W. OUKO

JUDGE