



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT EMBU

Succession 512 of 2006

IN THE MATTER OF THE ESTATE OF GAKURU KIORUGARI.....DECEASED

VERSUS

EUSEPHIA KIARA GAKURU.....APPLICANT

RULING

The deceased Gakuru Kiorugari died on 9/10/1089 at the age of 84 years. His main asset at the time of death was parcel of land Gaturi/Nembure/2470 measuring approximately 2.02 Ha.

After his death his widow Eusephia Karia Gakuru applied for a grant of letters of administration. A grant was made to her on 11/9/1998. She thereafter applied for confirmation of grant which was confirmed but she has now come before court praying for rectification of the grant on the ground that 2 of the beneficiaries who were given inheritance namely:

1. Justine Njiru Gakuru given 1 acre now title No. **Gaturi/Nembure/10165**.
2. Cecilia Gicuku second widow given $\frac{1}{2}$ acre being parcel No.10162 both have died. She wants the said plots to be distributed.

However when the parties came to court for hearing one sister Mary Alosia Muthanje a Catholic nun made a claim saying that she was a daughter of deceased and she was entitled to inheritance. She filed an affidavit claiming $\frac{1}{2}$ acre out of the land allocated to Justin deceased and she proposed that the other $\frac{1}{2}$ be shared by Michael Kathuri Gakuru $\frac{1}{4}$ acre and John Njeru Gakuru $\frac{1}{4}$ acre.

The protester gave evidence she said she was staying at Meru Diocese of the Catholic Church and as a daughter of the deceased she is entitled to inherit she said she is not married. She said her mother was the elder wife. She said Justin (deceased) has left no children but Cecilia has left 4 boys and 3 girls she claims $\frac{1}{2}$ acre.

The evidence given by the members of the family did not oppose the claim of protester but had proposed that she gets her mother's share (the petitioner).

I have considered the evidence the evidence and the proposal put forward. I find that the protester being a child of diseased is entitled to inherit in his estate. There is land available namely` the land allocated to the son Justin who has now died. He has no children to succeed him he was given parcel No. Gaturi/Nembure/10162 measuring one (1) acre.

I therefore with regard to application dated 21/11/2006 make the following orders:-

1. the grant shall be rectified so that plot number Gatari/Nembure/10165 shall be inherited by-

1. Sister Mary Aloysia Muthanje $\frac{1}{2}$ acre.
2. Michael Kathuri Gakuru $\frac{1}{4}$ acre
3. John Njeri Gakuru $\frac{1}{4}$ acre.

The distribution of plot No.10162 to be taken by Eric Rutere Gakuru. The distribution of the remainder of the land shall remain as per certificate of confirmation already issued.

It is so ordered.

Dated this 10th July, 2007.

J. N. KHAMINWA

JUDGE

10/7/2007

Delivered in presence of petitioner in open court.

J. N. KHAMINWA

JUDGE