

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 1150 OF 2000

***(IN THE MATTER OF THE ESTATE OF SOHAN SINGH MATHERU
(DECEASED)***

R U L I N G

Bhopinder Singh Matheru, a brother to the late Sohan Singh Matheru (deceased) objected to the deceased's wife, Mrs. Kartar Kaur Matheru, petition for a Grant of Letters of Administration to the deceased's estate. The deceased died on 9th January, 2000, and the widow, petitioned for the Grant on 13th March, 2000.

The deceased children relinquished their shares in favour of their mother. They also gave her consent to petition for the Grant.

The deceased's brother filed an objection dated 25th August, 2000. His grounds of objection include the fact that him and the deceased who is his brother inherited gold, ornaments and other valuable from their parents and they had not divided the items. The objector also claimed that he was the one, who administered their father's estate, as such, it would be fair for him to administer his deceased brother's estate as well.

In court during submission the objector stated that his deceased brother was holding valuables in trust for him so if he is not made an administrator, he will suffer. He prayed that he be made the sole administrator or a joint administrator. He said further that both himself and his brother own the family house jointly, that is why he must be an administrator. He also wanted to have a share of the deceased's personal belongings.

Whilst being questioned by the petitioner's counsel, he admitted that his father's property was divided between him and his deceased's brother in a will, but he still felt that he wanted a share of his brother's property. The petitioner identified the objector as his brother in law, and stated that all the properties he listed in her petition belong to her husband the deceased.

The petitioner recalled that her father in law left a will and his property was divided and inherited as per the will. She denied that she had claimed any of the objector's property. She only claimed what belonged to her husband. She produced as an exhibit the Grant of Probate with will annexed of her late father in law, and said that his property was divided amongst his sons, her husband being one of them.

Having listened to the objector's submissions and the submissions made on behalf of the petitioner widow, I find that the objector has not proved that his half share of property was in his deceased brother's estate.

The Grate of Probate of the objector's father divided property to the objector, and the deceased Sohan Singh. The will does not make the deceased Sohan Singh a trustee for all the property. Each son was given his rightful share. I read the list of properties in form P&A 5. This is the list given by the petitioner widow, Mrs. Kartar Kaur Matheru. The list simply consists of shares in various insurance companies, and in respect of the family property being L.R No.209/2489/34, the petitioner only claimed ½ share, which belonged to her husband. This means that the objector has the other half.

I have considered the objection but find that it has no merit and I proceed to dismiss the same with costs to the petitioner/widow.

Dated at Nairobi this 18th day of June, 2001.

JOYCE ALUOCH

PUISNE JUDGE