



In re Estate of M'Itwamikwa Bagiri (Deceased) (Succession Cause 195 of 1993) [2024] KEHC 1461 (KLR) (15 February 2024) (Ruling)

Neutral citation: [2024] KEHC 1461 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 195 OF 1993
TW CHERERE, J
FEBRUARY 15, 2024**

**IN THE MATTER OF THE ESTATE OF M'ITWAMIKWA BAGIRI (DECEASED)
ZACHARIAH KAMATHI M'ITWAMIKWA BAGIRI.....ADMINISTRATOR**

AND

IN THE MATTER OF AN APPLICATION FOR RECTIFICATION

BY

FRANCIS MUNYUA MIKWA.....APPLICANT

RULING

1. By Certificate of Confirmation of Grant dated 15th July, 2009, the Deceased's estate was distributed as follows:
LR No. Kiirua/ruiiri/302
 1. Francis Munyua Mikwa - 3.50 Acres
 2. Janet Kathure M'Rutere & her children Justus Mutuma Rutere & Lawrence Kinoti Ruteere - 3.50 Acres
 3. Joseph Kireria - 3.50 Acres
 4. Zachariah Kamathi M'Ituamikwa - 3.50 Acres
 5. Julia Nyaru M'twamikwa - Balance after road access is removed
2. The green card for LR No. Kiirua/ruiiri/302 filed with the court reveals that after the confirmation of the grant, Zachariah Kamathi M'Ituamikwa (Administrator) caused the asset to be partitioned into LR No. Kiirua/ruiiri/4642 – 4646.
3. The search certificates file with the court disclose that the subdivisions were registered as follows;
 1. LR No. Kiirua/ruiiri/4642 to Joseph Kireria



2. LR No. Kiirua/ruiri/4643 to Francis Munyua Mikwa
3. LR No. Kiirua/ruiri/4644 to Zachariah Kamathi M'Ituamikwa
4. LR No. Kiirua/ruiri/4645 to Zachariah Kamathi M'Ituamikwa
5. LR No. Kiirua/ruiri/4646 Janet Kathure M'Rutere, Justus Mutuma Rutere & Lawrence Kinoti Ruteere
4. The search certificate for LR No. Kiirua/ruiri/4644 discloses that to Zachariah Kamathi M'Ituamikwa (Administrator) caused the asset to be partitioned into 4 portions namely LRNo. Kiirua/ruiri/5052-5055.
5. All the search certificates filed availed to the cur reveal that no asset was transferred to Julia Nyaru M'twamikwa.

Summons

6. Now that Zachariah Kamathi M'Ituamikwa (Administrator) is deceased, Francis Munyua Mikwa by summons 11th January, 2024 prays that he be substituted with the deceased Administrator so that he can transfer LR No. Kiirua/ruiri/4645 to one Paul Mwongera Munyua who is a nephew of Julia Nyaru M'twamikwa now deceased.

Analysis and Determination

7. I have considered the summons and I find that the substitution of the deceased administrator is necessary so that the distribution of deceased's estate can be completed.
8. However, the prayer that the share for Julia Nyaru M'Twamikwa ought to be transferred to Paul Mwongera Munyua is declined for this cause does not related to the estate of Julia Nyaru M'twamikwa whose issues ought to be determined in a separate cause.
9. In the end, the summons dated 11th January, 2024 is allowed in the following terms:
 1. Zachariah Kamathi M'Ituamikwa (Administrator) is deceased is substituted with Francis Munyua Mikwa
 2. Certificate of Confirmation of Grant dated 15th July, 2009 shall be rectified to the effect that the balance of LR No. Kiirua/ruiri/302 after road access is removed shall be for the benefit of the estate of Julia Nyaru M'twamikwa
 3. The land Registrar Meru is directed to transfer LR No. Kiirua/ruiri/4645 to the estate of Julia Nyaru M'twamikwa
 4. The Letters of Administration and Rectified Certificate of Confirmation of Grant shall issue accordingly
 5. Mention on 29th April. 2024 to confirm transmission

DATED AT MERU THIS 15TH DAY OF FEBRUARY 2024

WAMAE. T. W. CHERERE

JUDGE

Appearances



Court Assistants - Kinoti/Munene

For Applicant - Mr.Kiruai for Kiruai Mukono & Co. Adviocates

