



**In re Estate of Javan Kilaya Ushora (Deceased) (Succession Cause
139 of 2015) [2024] KEHC 4723 (KLR) (6 May 2024) (Judgment)**

Neutral citation: [2024] KEHC 4723 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
SUCCESSION CAUSE 139 OF 2015
GL NZIOKA, J
MAY 6, 2024**

IN THE MATTER OF

ALBERT KILAYA ADMINISTRATOR

JUDGMENT

1. By an application being a summons for confirmation of grant dated 3rd April 2023, the administrator of the Estate of Javan Kilaya Ushora has sought from orders that the grant of letters of administration intestate issued to the administrator on 9th December 2015, be confirmed and the costs of the application be in the cause.
2. The application is supported by an affidavit of even date sworn by the administrator, in which he lists the names of the beneficiaries of the estate at paragraph 2 and the list of the assets of the estate at paragraph 5 being only one property, LR Number 413/19 Naivasha. In the same paragraph is the suggested mode of distribution. I equally note that, attached to the application is a consent signed by all beneficiaries to the confirmation of grant, except one beneficiary namely Joseph Javan Kiraya, a son of the deceased.
3. I further note from the court record an affidavit dated 7th July 2023 sworn by Joseph Javan Kiraya. He deposes at paragraph 2 that, he has no objection to the list of distribution of the subject land as proposed by family members and deposes by the administrator. That the subject land is not in his name and attached an official search from the Ministry of Land showing the land is in the name of the deceased. He sought that the summons for confirmation be allowed
4. Noting that, there was an objection to the earlier proposed mode of distribution of the land, the court referred the matter to mediation. The process took place and a partial settlement agreement was filed in court. It suffices to note that, the objector has a claim over a parcel of land which is not part of the asset listed herein.
5. Be that as it were, the objector filed an objection seeking that, the court do make an order to the effect that, the property Naivasha/Maraigushu Block 14/103 Gathengera belong to him solely to the



exclusion of all the other family members of the Estate. He was heard on the application by calling a witness Ruth Njeri Ngigi. Having heard the witness it become clear that, the subject land had not been transferred into the name of the deceased. Therefore, it does not form part of the Estate of the deceased as of now. Even then the issue of whether that land belongs to the protestor/objector or the Estate cannot be canvassed in this matter.

6. In the given circumstances there being no objection to the confirmation of grant as herein sought I allow the application dated 3rd April 2023, with no orders as to cost. The relevant certificate of confirmation may be issued accordingly.

DATED, DELIVERED AND SIGNED THIS 6TH DAY OF MAY, 2024

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GRACE L. NZIOKA

JUDGE

In the presence of:-

N/A for the administrator

Joseph Kiraya the Objector

Selina Kilaya in attendance

Ms Ogutu: Court assistant

