



REPUBLIC OF KENYA



KENYA LAW
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In re Estate of Joseph Kubai Rangata (Deceased) (Succession Cause 365 of 2015) [2023] KEHC 2564 (KLR) (16 March 2023) (Ruling)

Neutral citation: [2023] KEHC 2564 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
SUCCESSION CAUSE 365 OF 2015
LW GITARI, J
MARCH 16, 2023**

BETWEEN

GYNSON MUCHUNKU PETITIONER

AND

EUNICE IGOJI ADMINISTRATRIX

AND

MUGENDI JOSEPH PROTESTOR

RULING

1. This ruling relates to the distribution of the estate of Joseph Kubai Rangata. A grant of representation to the estate was issued to Jasper Kimandi Joseph. The same was confirmed on April 10, 2019 pursuant to the provisions of Section 71(1) and (3) of the *Law of Succession Act* and a certificate of confirmation of grant dated April 11, 2019 was subsequently issued.
2. As per the said confirmed grant, the subject estate was to be distributed as follows:
Description of Property: Mwimbi/Murugi/3545
Name Share
 - a. Mutuma Morris Kubai 1 Acre
 - b. Vercity Muthoni Joseph 2 Acres
 - c. Jasper Kimandi Joseph 1.54 Acres
 - d. Jasper Kimandi Joseph 0.86 Acres
3. On August 4, 2022, the learned counsel for the Administrator indicated to this court that the distribution of the estate had since been completed. An order was consequently issued directing the



Administrator to file an account of the distribution within six months so that the file can be closed. On record is an account of the distribution of the estate that is dated January 24, 2023.

4. I have looked at the confirmed grant issued on April 10, 2019 and the Estate Distribution Account filed on January 25, 2023. The account filed indicates that land has been sub-divided as per the confirmed grant and the new land titles of the sub-divisions are as follows:

Name of Beneficiary	Land Registration Number	Size of Land
Jasper Kimandi Joseph	Mwimbi/Murugi/5981	0.86 Acres
Jasper Kimandi Joseph	Mwimbi/Murugi/5983	1.54 Acres
Vercity Muthoni Joseph	Mwimbi/Murugi/5985	2 Acres
Mutuma Morris Kubai	Mwimbi/Murugi/5982	1 Acre

5. Notably, the Administrator herein has only provided copies of search in respect to the sub-divisions that have resulted in land parcels no. Mwimbi/Murugi/5981 and Mwimbi/Murugi/5983.
6. Personal representatives of an estate are under a duty to produce to the court, within six months of the date of the grant, a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account. This duty is clearly stipulated under Section 83(e) of the Law of Succession Act.
7. In my view, central to the provisions of under Section 83(e) of the Law of Succession Act is that final accounts of the distribution of an estate should be full and accurate. In this case, there is no proof to substantiate the account given that Mwimbi/Murugi/5985 and Mwimbi/Murugi/5982, measuring 2 Acres and 1 Acre respectively, have been distributed to the respective beneficiaries. It has however been indicated that Mwimbi/Murugi/5982 has since been sold off to a third party, who has not been identified. In view of this omission it is my considered view that estate distribution account as presented is incomplete. The same cannot be accepted as a full and accurate account of the distribution of the estate of the deceased in the absence of evidence to show that Vercity Muthoni Joseph and Mutuma Morris Kubai received their rightful shares pursuant to the confirmed grant. I thus opine that the file should thus remain open until shall proof is provided. The applicant to file a full account within thirty days. Matter be mentioned on June 6, 2023.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 16TH DAY OF MARCH 2023.

L.W. GITARI

JUDGE

16/3/2023

The ruling has been read out in open court.

L.W. GITARI

JUDGE

16/3/2023

