



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

SUCCESSION CAUSE NO. 479 OF 2018

IN THE MATTER OF THE ESTATE OF ELIUD SIMON MBILU (DECEASED)

RULING

1. Before this court for determination is the matter of the distribution or **Title No. Mulango/Wikililye/440**, which is the assets comprising the estate of the Deceased **ELIUD SIMON MBILU**.

2. Vide a Ruling delivered on **18th June 2021** the court gave directions on the mode of distribution of the other assets forming the estate of the Deceased. However with respect to **Plot 440** the court directed that the Registrar of lands **Kitui** award the ownership documents for said parcel of land. The Petitioner **Eunice Simon Mbilu** claimed to be the owner of this **Plot 440** having purchased the same from the owner. She claimed that the said parcel of land was registered in her name.

3. The Co-administrator **Marie Kasyoka Mbilu** denied that **Plot 440** belonged to the Petitioner. She stated that the said Plot had been excised from the ancestral land belonging to the family and had been given to the Deceased who in turn pointed it out to his late wife **Avia Kavutha Mbilu** as the place where she would build their matrimonial home. She asserted that, **Plot 440** belonged to the Deceased and formed part of his estate.

4. On **2nd October 2021** the parties entered into the following consent-

“By consent

In view of the attached certificate of official search dated 28th July 2021, parcel of land Title No. Mulango/Wikililye/440 be and is hereby determined as part of the estate of Eliud Simon Mbilu (Deceased).

2. The court to proceed to determine the mode of distribution of the said parcel of land”

5. I have perused the copy of official search dated **28th July 2021**. It indicates that **Plot 440** is registered to the Deceased **Eliud Simon Mbilu**. Thus puts paid to the Petitioners claim to be the registered owner of said parcel of land

6. The said parcel of land is indicated to form part of the ancestral land belonging to the family of the Deceased. The petitioner told the court that this is where her late mother who was the **1st** wife of the Deceased intended to build her matrimonial home.

7. In the circumstances I do direct that Title No. **Mulango/Wikililye/440** measuring approximately 1.0 Hectares shall devolve in equal shares to the surviving children of the Deceased namely:-

a. Marie Musuoka Mbilu

b. Betty Syobombe Mbilu

c. Peter Kithuka Mbilu

d. Nancy Mwendu Mbilu

e. Julie Syomiti Mbilu

f. Esther Mwikali Mbilu

8. It is so ordered.

9. No orders on costs.

DATED IN NAIROBI THIS 11TH DAY OF FEBRUARY 2022.

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MAUREEN A. ODERO

JUDGE