



REPUBLIC OF KENYA



**In re Estate of James Muriithi Githua (Deceased) (Succession Cause
1245 of 2013) [2024] KEHC 15450 (KLR) (Family) (5 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15450 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 1245 OF 2013
EKO OGOLA, J
DECEMBER 5, 2024
IN THE MATTER OF THE ESTATE OF JAMES MURIITHI GITHUA (DECEASED)**

BETWEEN

FILOMINA KINANU OBJECTOR

AND

ANN WAIRIMU MURIITHI PATIENT

AND

TOINY MUTHONI PETITIONER

RULING

1. The subject of this Judgment is the distribution of the deceased estate. The deceased died intestate in 2013. The beneficiaries of the estate are as follows:- Ann Wanjiru Muriithi, Sandra Njeri Muriithi, Toiny Muthoni Muriithi, Prince Junior Githua Muriithi, and Precious Joy Njeri Muriithi. The estate of the deceased comprised of the following assets; plot nos. A.549, B. 72, and B.129 Tassia Embakasi.
2. According to the respondents, the deceased estate should be divided in the following manner:
 - i. Plot A.549 (undeveloped land)- To be distributed between Prince Junior Githua Muriithi and Precious Joy Njeri Muriithi
 - ii. Plot B.72 (commercial/residential property)- To be distributed amongst Ann Wanjiru Muriithi, Sandra Njeri Muriithi and Toiny Muthoni Muriithi. The reason put forward is that the 1st petitioner has improved the property immensely since 2013. Further to this, Prince and Precious were unknown to them in 2013. Therefore, they are not entitled to a share of the rent since 2013.



- iii. Plot B.129-(matrimonial home of the deceased and 1st petitioner)- To be distributed to Ann Wanjiru Muriithi absolutely.
3. The Objector, the mother of Prince and Precious submitted on her proposed mode of distribution as follows:-
- i. Plot A.549- To be distributed to the estate of the late Sandra Njeri Muriithi
 - ii. Plot B.72- To be distributed between Prince Junior Githua Muriithi and Precious Joy Njeri Muriithi. Her reasons were that Prince and Precious have not benefited from the deceased estate since 2013. Furthermore, that they are young and still have a long academic journey. The objector also submitted that the rental income since 2013 should be divided equally amongst the beneficiaries.
 - iii. Plot B.129- The objector did not dispute that this was the matrimonial home of the deceased and the 1st petitioner. She proposed that it be equally distributed between the five beneficiaries. According to the objector, there is no evidence that the 1st petitioner made both monetary and non-monetary contribution towards the construction of the property.

Determination

4. I have considered the proposed mode of distribution and the entire record of the court. First, I vacate the part of the Orders made on 2nd February 2023 that the deceased estate be divided equally amongst the beneficiaries.
5. It must be noted and appreciated that as per the Ruling of this court dated 19th October 2017, the objector is not considered as the deceased widow. The deceased was survived by one widow, and their matrimonial property was plot B.129. Also, plot B.72 was developed without the objector's input. After the death of the deceased, it has been maintained by the petitioners without the objector's input. However, the revenue from this plot formed part of the estate. It is important to appreciate that the deceased beneficiaries are all equal despite their age and needs in life.
6. From the foregoing, I distribute the estate as follows:-
- i. Plot A.549- To be distributed between Prince Junior Githua Muriithi and Precious Joy Njeri Muriithi.
 - ii. Plot B.72- To be distributed amongst Ann Wanjiru Muriithi, Sandra Njeri Muriithi and Toiny Muthoni Muriithi. The administrators, to hold the share of the late Sandra Njeri Muriithi in trust for her children until they attain the age of 18 years.
 - iii. Rental income from B.72 from 2013 to the date of this Judgment is to be shared equally amongst the beneficiaries. The income of the property is as per the administrator's valuation report and filed audited accounts.
 - iv. Plot B. 129- To be distributed to Ann Wanjiru Muriithi absolutely.
7. As per the Ruling of this Court dated 2nd February 2023, it is the onus of the applicant to prove that the motor vehicle and bank accounts belong to the estate of the deceased.
- Orders accordingly.

DATED AND DELIVERED AT NAIROBI THIS 5TH DAY OF DECEMBER 2024

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E.K. OGOLA

JUDGE

In the presence of:

Ms. Morara for the Objector

Ms. Maina h/b for Mr. Mbue Ndegwa for the Petitioners

Gisiele Muthoni Court Assistant.

