



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT ELDORET**

**SUCCESSION CAUSE NO. 253 OF 2003**

**IN THE MATTER OF THE ESTATE OF EDWARD SYALO LUTILO (DECEASED)**

**ROBAI SYALO LUTILO.....1<sup>ST</sup> ADMINISTRATOR**

**JOSEPHINE LUTILO.....2<sup>ND</sup> ADMINISTRATOR**

**RULING**

**Background:**

What was pending before the court is the filing of valuation reports of the three properties that form the estate of the **EDWARD SYALO LUTILO** (deceased) for the purposes of the court making final orders on the distribution of the estate. There was judgment on the matter but there had been no directions given as to distribution.

**1<sup>ST</sup> PETITIONER'S CASE**

The 1<sup>st</sup> petitioner (**ROBAI SYALO LUTILO**) referred to the valuation reports of the properties were filed on 15<sup>th</sup> May 2017. As regards the undeveloped plot; **KITALE MUNICIPALITY RESIDENTIAL PLOT NO. 10/94/58**, she relied on the documents filed in court on 15<sup>th</sup> May 2017 showing purchase of the property by the deceased, pointing out that the family of the deceased is in occupation of that parcel. The 1<sup>st</sup> administrator is ready and willing to transfer possession to the family after succession is complete.

She reiterated the position in their submissions filed on 10<sup>th</sup> December 2012, which proposed that the 1<sup>st</sup> administrator ought to get **KITALE MUNICIPALITY LR NO. 2116/25/IV** and (**JOSEPHINE LUTILO**) the 2<sup>nd</sup> administrator be given **KITALE RESIDENTIAL PLOT NO. 10/94/58** and plot no. **MATUNDA MARKET M.B BLOCK 1/4018** respectively.

**ISSUES FOR DETERMINATION**

1. Distribution of the estate

**DISTRIBUTION OF THE ESTATE**

There is no opposition to the proposed mode of distribution by any party. The issue that had arisen as per the record of the court on 25<sup>th</sup> March 2019 was the ownership of the undeveloped plot; **KITALE MUNICIPALITY RESIDENTIAL PLOT NO. 10/94/58**. It was not clear as to whether it formed part of the estate. The 1<sup>st</sup> petitioner filed a sale agreement dated 4<sup>th</sup> February 2002 as proof of the ownership of the property. She also attached proof of payment of instalments for the property although some are not clear. I find that on a balance of probabilities the deceased purchased the property and it formed part of the estate.

Since that there is no opposition to the proposed mode of distribution I see no reason to disturb the same. The property should be distributed as proposed.

**Delivered on line and dated this 4<sup>th</sup> Day of May 2020 upon written consent of all counsel**

**H.A. OMONDI**

**JUDGE**