



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

(CORAM: CHERERE-J)

SUCCESSION CAUSE NO. 950 OF 2014

IN THE MATTER OF THE ESTATE OF AGUMBA AWINDA(DECEASED)

BETWEEN

DOMTILLAH AKUMU OKORE.....1ST ADMINISTRATOR

AND

SAMSON OTIENO ADORN.....2ND ADMINISTRATOR

RULING

1. The deceased's family comprised Rebeca Adero (wife- deceased) and four children

a) Bodo Agumba

son - deceased

b) Oriedo Agumba c) Keziah Agumba

son - deceased (2nd administrator's father) Daughter - deceased

d) Joseph Okore Agumba son -deceased (1st administrator's husband)

2. The 1st Administrator on 08.11.17 filed an affidavit sworn on 6. 11.17 proposing that the deceased's estate be distributed as follow: -

1. Samson Otieno Adorn s/o Oriedo Agumba - 1.09 Ha

2. Penina Adega daughter in law to Bodo Agumba - 0.95 Ha

3. Domtillah Akumu Okore w/o Joseph Okore Agumba - 0.97 Ha

3. The 2nd administrator on the other hand proposed that the deceased's estate be distributed as follows: -

1. Samson Otieno Adorn s/o Oriedo Agumba - 3.0 Ha

2. Domtillah Akumu Okore w/o Joseph Okore Agumba - 0.2 Ha

4. When it became apparent that the parties could not agree on the mode of distribution, this court by an order dated 21.11.19, referred this matter to a Court Annexed Mediator and still the parties did not agree.

5. This ruling is therefore for the sole purpose of distribution of the deceased's estate.

6. It is on record that the deceased had during lifetime settled most of his property as follows.

1) **L.R. NO. Kisumu/Kadongo 178, 265, 280, 489, 499, 518, 537 and 538 to his son Joseph Okore Agumba**

2) **L.R. NO. Kisumu/Kadongo 511, 544 and 558 to his grandson Juma Bodo**

3) **L.R. NO. Kisumu/Kadongo 540 and 545 to his grandson Joseph Adeg**

4) **L.R. NO. Kisumu/Kadongo 553 to his grandson Okulo Bodo**

7. The deceased died intestate and his free property that is subject of this succession in terms of Section 34 of the Law of Succession Act Cap 160 Laws of Kenya (*the Act*) is **LR. KISUMU/KADONGO/543**.

8. There is evidence that the deceased did not settle any of his property to his son Oriedo Agumba (2nd administrator's father). It would therefore not be in the interest of justice to distribute the estate into three equal shares for the reason that the family of Oriedo Agumba will be disadvantaged.

9. I have considered the proposal that has been made by the 2nd Administrator and I find that it is fair and just for the reason that it takes care of the interest of the 1st administrator whose husband was the deceased's last born son.

10. Consequently, it is hereby ordered **THAT**:

a) **LR. KISUMU/KADONGO/543 shall be apportioned as follows:**

i. **3.0 Ha to Samson Otieno Adorn and Jacob Agumba the sons of s/o Oriedo Agumba in equal shares**

ii. **0.2 Ha to Domtillah Akumu Okore w/o Joseph Okore Agumba**

DATED AT KISUMU THIS 01st DAY OF October 2020

T. W. CHERERE

JUDGE

Court assistant - Ms. Amondi

For 1st Administrator - Ms. Awuor hb for Mr. Sala for Sala & Mudany & Co. Advocates

For 2nd Administrator - Mr. Olel for Olel, Onyango, Ingutiah & Co. Adv

Order

This ruling has been delivered to the parties by electronic mail due to measures restricting court operations due to the COVID-19 pandemic.