



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MALINDI

SUCCESSION CAUSE NO. 137 OF 2015

IN THE MATTER OF OATHS AND STATUTORY DECLARATIONS ACT CAP 15 LAWS OF KENYA

IN THE MATTER OF THE ESTATE OF ARTHUR JEREMIAH TSUMAH (DECEASED)

Coram: Hon. Justice R. Nyakundi

Kilonzo & Aziz Advocates for the applicants

Objector in person

RULING

The deceased **Arthur Jeremiah Tsumah** died intestate on 19.11.2012. He was survived at the date of his death with six spouses and sixty seven children as particularized in the supporting affidavit of the administrators. The administrators in the summons of confirmation of grant of Letters of Administration intestate filed in Court on 18.7.2019 seeks interalia:

(a) That the grant of letters intestate issued on 7.3.2017 be confirmed and the properties both movables and immovable be stated amongst the beneficiaries.

In the affidavit evidence the deceased died leaving the following assets:

(a) Parcel of land Kilifi/Mwawesa (particulars with held).

(b) Parcel of land Kilifi/Mwawesa/1792.

(c) Parcel of land Kilifi/Mwawesa

(d) Parcel of land at Mbongolo

(e) Plot No. 560

(f) Plot No. 561

(g) One semi-permanent rental house at Barani

(h) Another semi-permanent rental house at Kwachocha

(i) 25 heads of cattle

It is proposed in the consent on the mode of distribution that the shares have been ascertained as per the annexures marked **AJT – 3** as read with **AJT – 4**. However, the beneficiaries have since been unable to agree on the distribution of the livestock left behind by the deceased. The evidence on the mode of distribution signifies that the administrators were able to satisfy all the beneficiaries on the distribution of the assets of the deceased in the best interests of the estate.

It follows therefore that the Court find no compelling reasons to interfere with the mode of distribution save for the contested movables on livestock. The Courts duty therefore is to ensure that the criteria on this residual estate not agreed to be distributed with the rest of the assets can be done in accordance with general application of the Law of Succession.

First in my humble view, the administrators duty to oversee the distribution of the rest of the estate was in compliance with Section 38 of the

Law of Succession. In adherence to devolve the shares of the assets equally among the children is also evident that the daughters of the deceased were also included and ranked equally with their counterpart brothers in equal measure. How then shall the remainder of the livestock be distributed. In the filed consent mode of distribution to the extent of finding a practicable solution its indicated that each of the six surviving spouse be entitled to equal share of the movable assets aimed at towards at achieving equity in the matter.

I have considered the provisions under Section 40 of the Law of Succession and move to distribute the 25 (twenty five) heads of cattle equally amongst households regardless of the number of children in each house. In this petition for confirmation of grant intestate, I have given due weight to the affidavit and consent on the mode of distribution of the estate dated 17.7.2019 and further affidavit dated 30.10.2020.

Its in my Judgment that the grant of Letters of Administration be confirmed and the estate of the deceased '**be shared amongst the beneficiaries equally but also adding the surviving spouse as an additional unit**' as proposed by the administrators and the respective consents. Therefore, without departing from the letter and spirit of that mode of distribution of all the assets, the deadlocked issue on livestock be solely left for the six spouses. It follows therefore that the scheme of distribution be four cows for each household and the remainder to be sold and the proceeds shared equally amongst the spouses.

In the result and for reasons stated grant of letters of administration issued on 17.3.2017 be confirmed and the intestate estate be distributed as per the annexed consent on mode of distribution, with a variation made by the Court on livestock. as this is a family dispute no order as to costs has been provided for in any event.

Accordingly, to this effect the estate stands distributed in the following manner:

NO	HEIRS	DESCRIPTION OF PROPERTY	SHARES IN PERCENTAGE
1	ELIZABETH TSUMA JEREMIAH	PLOT 2.214 HA AT MBOGOLO NOT REGISTERED	0.316%
2	BAHATI RUTH TSUMA	PLOT 2.214 HA AT MBOGOLO NOT REGISTERED	0.316%
3	KADZO KAHINDI CHARO	PLOT 2.214 HA AT MBOGOLO NOT REGISTERED	0.316%
4	DAMA KIRAO KALAMA	PLOT 2.214 HA AT MBOGOLO NOT REGISTERED	0.316%
5	FATUMA KAZUNGU NGANDU	PLOT 2.214 HA AT MBOGOLO NOT REGISTERED	0.316%
6	BAHATI REUBEN DICKSON	PLOT 2.214 HA AT MBOGOLO NOT REGISTERED	0.316%
7	PRISCILLAR KADZO TSUMAH	PLOT 2.214 HA AT MBOGOLO NOT REGISTERED	0.316%
1	ELIZABETH TSUMA JEREMIAH	25 HEADS OF CATTLE VALUED AT KSH. 720,000	4 COWS EACH, THE REMAINING COW BE SOLD AND THE PROCEED BE SHARED EQUALLY
2	BAHATI RUTH TSUMAH	25 HEADS OF CATTLE VALUED AT KSH. 720,000	4 COWS EACH, THE REMAINING COW BE SOLD AND THE PROCEED BE SHARED EQUALLY
3	KADZO KAHINDI CHARO	25 HEADS OF CATTLE VALUED AT KSH. 720,000	4 COWS EACH, THE REMAINING COW BE SOLD AND THE PROCEED BE SHARED EQUALLY
4	DAMA KIRAO KALAMA	25 HEADS OF CATTLE VALUED AT KSH. 720,000	4 COWS EACH, THE REMAINING COW BE SOLD AND THE PROCEED BE SHARED EQUALLY
5	FATUMA KAZUNGU NGANDU	25 HEADS OF CATTLE VALUED AT KSH.720,000	4 COWS EACH, THE REMAINING COW BE SOLD AND THE PROCEED BE SHARED EQUALLY

6	BAHATI REUBEN DICKSON	25 HEADS OF CATTLE VALUED AT KSH. 720,000	4 COWS EACH, THE REMAINING COW BE SOLD AND THE PROCEED BE SHARED EQUALLY
1	MANASSEH SAMUEL TSUMAH	PLOT NO. 561 SABAHI 12.92 HA	0.185%
2	ANA CHIDZAME	PLOT NO. 561 SABAHI 12.92 HA	0.185%
3	KAHOLETH CHIRIZAMY TSUMAH	PLOT NO. 561 SABAHI 12.92 HA	0.185%
4	CHARLES MUYOMBO TSUMAH	PLOT NO. 561 SABAHI 12.92 HA	0.185%
5	VICTORIA NELLY Tsuma	PLOT NO. 561 SABAHI 12.92 HA	0.185%
6	CONNY TSUMAH	PLOT NO. 561 SABAHI 12.92 HA	0.185%
7	MONICA TSAYA Ysumah	PLOT NO. 561 SABAHI 12.92 HA	0.185%
8	JEREMIAH MWANDENGE Tsumah	PLOT NO. 561 SABAHI 12.92 HA	0.185%
9	JANET NYADZUA Tsumah	PLOT NO. 561 SABAHI 12.92 HA	0.185%
10	DOROTHY MEDZA Tsuma	PLOT NO. 561 SABAHI 12.92 HA	0.185%
11	KENNETH MVIKO Tsuma	PLOT NO. 561 SABAHI 12.92 HA	0.185%
12	CHARITY HALIMA Tsumah	PLOT NO. 561 SABAHI 12.92 HA	0.185%
13	DANIEL JEREMIAH Tsumah	PLOT NO. 561 SABAHI 12.92 HA	0.185%
14	NANCY TSUMAH	PLOT NO. 561 SABAHI 12.92 HA	0.185%
15	STANLEY SAMMY Tsumah	PLOT NO. 561 SABAHI 12.92 HA	0.185%
16	GRACE TSUMAH	PLOT NO. 561 SABAHI 12.92 HA	0.185%
17	FLORENCE CHIZI Tsumah	PLOT NO. 561 SABAHI 12.92 HA	0.185%
18	CHRISTINE NYADZUA Tsumah	PLOT NO. 561 SABAHI 12.92 HA	0.185%
19	MARY TSUMAH	PLOT NO. 561 SABAHI 12.92 HA	0.185%

20	IRINE TSUMAH	AQUINO	PLOT NO. 561 SABAKI 12.92 HA	0.185%
21	MERCY TSUMA	NAONI	PLOT NO. 561 SABAKI 12.92 HA	0.185%
22	STEPHEN TSUMA	MALIT	PLOT NO. 561 SABAKI 12.92 HA	0.185%
23	DAMSON TSUMA	MURUU	PLOT NO. 561 SABAKI 12.92 HA	0.185%
24	GLORIA TSUMAH	TATU	PLOT NO. 561 SABAKI 12.92 HA	0.185%
25	MARY TSUMAH	MEDZA	PLOT NO. 561 SABAKI 12.92 HA	0.185%
26	MOSES TSUMAH	SABURI	PLOT NO. 561 SABAKI 12.92 HA	0.185%
27	ROBERT TSUMAH	CHITAI	PLOT NO. 561 SABAKI 12.92 HA	0.185%
28	DAVID TSUMAH	KAHINDI	PLOT NO. 561 SABAKI 12.92 HA	0.185%
29	CAROLYNE TSUMAH	NYEVU	PLOT NO. 561 SABAKI 12.92 HA	0.185%
3031	PETER TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
32	ALEX TSUMAH	MUYOMBO	PLOT NO. 561 SABAKI 12.92 HA	0.185%
33	MULONGO TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
34	PINDA TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
35	MWALIMU JERENIAH TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
36	CHITAI TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
37	DANIEL TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
38	SUSAN TSUMAH	MULONGO	PLOT NO. 561 SABAKI 12.92 HA	0.185%
39	MARIAM TSUMAH	MEDZA	PLOT NO. 561 SABAKI 12.92 HA	0.185%
40	KABUNDA TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
41	EVERLINE TSUMA	MGENI	PLOT NO. 561 SABAKI 12.92 HA	0.185%

42	ESTHER TSUMAH	MEDZA	PLOT NO. 561 SABAKI 12.92 HA	0.185%
43	PRISCILLAR ARTHER TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
44	JEREMIAH MWANDENGE TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
45	CLEMENCE TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
46	DANIEL TSUMAH	BEZANA	PLOT NO. 561 SABAKI 12.92 HA	0.185%
47	ALBERT TSUMAH	ARTHUR	PLOT NO. 561 SABAKI 12.92 HA	0.185%
48	MARTHA TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
49	VICORIA TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
50	NAOMI TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
51	NAOMI TSUMAH	MBEYU	PLOT NO. 561 SABAKI 12.92 HA	0.185%
52	BETTY TSUMAH	ARTHER	PLOT NO. 561 SABAKI 12.92 HA	0.185%
53	MARY TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
54	RUTH Tsuma	BAHATI	PLOT NO. 561 SABAKI 12.92 HA	0.185%
55	JOSEPH TSUMAH	MAWEDI	PLOT NO. 561 SABAKI 12.92 HA	0.185%
56	NICODEMUS TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
67	MAGDALENE TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
58	ESTHER TSUMAH	NZITSAA	PLOT NO. 561 SABAKI 12.92 HA	0.185%
59	ENOCK TSUMAH	ARTHUR	PLOT NO. 561 SABAKI 12.92 HA	0.185%
60	CHAKA TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
61	JEREMIAH TSUMAH	SHEVUDI	PLOT NO. 561 SABAKI 12.92 HA	0.185%
62	ARTHUR TSUMAH	JEREMIAH	PLOT NO. 561 SABAKI 12.92 HA	0.185%
63	FRANCIS TSUMAH	BARAKA	PLOT NO. 561 SABAKI 12.92 HA	0.185%

64	MZUNGU JEREMIAH TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
65	MARTIN JOMO TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
66	ALFRED VUKO TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
67	GLADYS KABIBI TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
68	JOSEPH MUNGA TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
69	HARUN TSUMAH		PLOT NO. 561 SABAKI 12.92 HA	0.185%
70	JOHN GITAU		PLOT NO. 561 SABAKI 12.92 HA	0.185%
1	ELIZABETH TSUMA JEREMIAH		1 HOUSE SITUATED AT BARANI VALUED AT KHS 20,000,000. 1 HOUSE AT KWACHOCHA VALUED AT KHS 5, 000,000	1.3%
2	BAHATI RUTH TSUMAH		“	1.3%
3	KADZO KAHINDI CHARO		“	1.3%
4	DAMA KIRAO KALAMA		“	1.3%
5	FATUMA KAZUNGU NGANDU		“	1.3%
6	BAHATI REUBEN DICKSON		“	1.3%
7	PRISCILLAR KADZO TSUMAH		“	1.3%
8	MANASSEH SAMUEL TSUMAH		“	1.3%
9	ANA CHIDZAME		“	1.3%
10	KOHOLETH CHIRIZAMY TSUMAH		“	1.3%
11	CHARLES MUYOMBO TSUMA		“	1.3%
12	VICTORIA NELLY TSUMAH		“	1.3%
13	CONNY TSUMAH		“	1.3%

14	MONICAH TUMA	TSAYA	“	1.3%
15	JEREMIAH MWANDENGE TUMA		“	1.3%
16	JANET TUMA	NYADZUA	“	1.3%
17	DOROTHY TUMA	MEDZA	“	1.3%
18	KENNETH TUMA	MVUKO	“	1.3%
19	CHARITY TUMA	HALIMA	“	1.3%
20	DANIEL TUMA	JEREMIAH	“	1.3%
21	NANCY TUMA		“	1.3%
22	STANLEY TUMA	SAMMY	“	1.3%
23	GRACE TUMA		“	1.3%
24	FLORENCE TUMA	CHIZI	“	1.3%
25	CHRISTINE NYADZUA TUMA		“	1.3%
26	MARY TUMA		“	1.3%
27	IRINE TUMA	AQUINO	“	1.3%
28	MERCY TUMA	NAOMI	“	1.3%
29	STEPHEN TUMA	MALIT	“	1.3%
30	DAMSON TUMA	MURUU	“	1.3%
31	GLORIA TUMA	TATU	“	1.3%
32	MARY TUMA	MEDZA	“	1.3%
33	MOSES TUMA	SABURI	“	1.3%
34	ROBERT TUMA	CHITAI	“	1.3%

35	DAVID KAHINDI TSUMAH	“	1.3%
36	CAROLYNE NYEVU TSUMAH	“	1.3%
37	PETER TSUMAH	“	1.3%
38	ALEX MUYOMBO TSUMAH	“	1.3%
39	MULONGO TSUMAH	“	1.3%
40	PINDA TSUMAH	“	1.3%
41	MWALIMU JEREMIAH TSUMAH	“	1.3%
42	CHITAI TSUMAH	“	1.3%
43	DANIEL TSUMAH	“	1.3%
44	SUSAN MULUNGO TSUMAH	“	1.3%
45	MARIAM MEDZA TSUMAH	“	1.3%
46	KABUNDA TSUMAH	“	1.3%
47	EVERLYNE MGENI TSUMAH	“	1.3%
48	ESTHER MEDZA TSUMAH	“	1.3%
49	PRISCILLAR ARTHUR TSUMAH	“	1.3%
50	JEREMIAH MWANDENGE TSUMAH	“	1.3%
51	CLEMENCE TSUMAH	“	1.3%
52	DANIEL BEZANA TSUMA	“	1.3%
53	ALBERT ARTHUR TSUMAH	“	1.3%
54	MARTHA TSUMAH	“	1.3%
55	VICTRIA TSUMA	“	1.3%
56	NAOMI TSUMAH	“	1.3%

57	NAOMI TSUMAH	MBEYU	“	1.3%
58	BETTY TSUMAH	ARTHUR	“	1.3%
59	MARY	TSUMAH	“	1.3%
60	RUTH TSUMAH	BAHATI	“	1.3%
61	JESOPH TSUMAH	MAWEDI	“	1.3%
62	NICODEMUS TSUMAH		“	1.3%
63	MAGDALINE TSUMAH		“	1.3%
64	ESTHER TSUMAH	NZITSAA	“	1.3%
65	ENOCK TSUMAH	ARTHUR	“	1.3%
66	CHAKA	TSUMAH	“	1.3%
67	JEREMIAH TSUMAH	SHEVUDI	“	1.3%
68	ARTHUR TSUMAH	JEREMIAH	“	1.3%
69	FRANCIS TSUMAH	BARAKA	“	1.3%
70	MZUNGU TSUMAH	JEREMIAH	“	1.3%
71	MARTIN TSUMAH	JOMO	“	1.3%
72	MUYOMBO	TSUMAH	“	1.3%
73	ALFRED TSUMAH	VUKO	“	1.3%
74	GLADYS Tsuma	KABIBI	“	1.3%
75	JOSEPH Tsuma	MUNGA	“	1.3%
76	HARUN	TSUMAH	“	1.3%
77	JOHN	GITAU	“	1.3%
1	ELIZABETH TSUMAH	JEREMIAH	- PLOT KLF/MWAWESA/17111 1.083 HA KSH.15M	1.298%

		- PLOT LKF/MWAWESA/1792 0.3423 HA KSH. 500,000 -PLOT KLF/MWAWESA 0.6892 HA KSH. 1M	
2	BAHATI RUTH TSUMAH	“	1.298%
3	KADZO KAHINDI CHARO	“	1.298%
4	DAMA KIRAO KALAMA	“	1.298%
5	FATUMA KAZUNGU NGANDU	“	1.298%
6	BAHATI REUBEN DICKSON	“	1.298%
7	PRISCILLAR KADZO TSUMAH	“	1.298%
8	MANASSEH SAMUEL TSUMAH	“	1.298%
9	ANA CHIDZAME	“	1.298%
10	KOHOLETH CHIRIZAMY TSUMAH	“	1.298%
11	CHARLES MUYOMBO TSUMAH	“	1.298%
12	VICTORIA NELLY TSUMAH	“	1.298%
13	CONNY TSUMAH	“	1.298%
14	MONICAH TSAYA Tsuma	“	1.298%
15	JEREMIAH MWANDENGE Tsumah	“	1.298%
16	JANET NYADZUA Tsumah	“	1.298%
17	DOROTHY MEDZA Tsumah	“	1.298%
18	KENNETH MVUKO Tsumah	“	1.298%
19	CHARITY HALIMA Tsumah	“	1.298%

20	DANIEL JEREMIAH TSUMAH	“	1.298%
21	NANCY TSUMAH	“	1.298%
22	STANLEY SAMMY TSUMAH	“	1.298%
23	GRACE TSUMAH	“	1.298%
24	FLORENCE CHIZI TSUMAH	“	1.298%
25	CHRISTINE NYADZUA TSUMAH	“	1.298%
26	MARY TSUMAH	“	1.298%
27	IRINE AQUINO TSUMAH	“	1.298%
28	MERCY NAOMI TSUMAH	“	1.298%
29	STEPHEN MALIT TSUMAH	“	1.298%
30	DANSON MURUU TSUMAH	“	1.298%
31	GLORIA TATU TSUMAH	“	1.298%
32	MARY MEDZA TSUMAH	“	1.298%
33	MOSES SABURI TSUMAH	“	1.298%
34	ROBERT CHITAI TSUMAH	“	1.298%
35	DAVID KAHINDI TSUMAH	“	1.298%
36	CAROLYNE NYEVU TSUMAH	“	1.298%
37	PETER TSUMAH	“	1.298%
38	ALEX MUYOMBO TSUMAH	“	1.298%
39	MULONGO TSUMAH	“	1.298%
40	PINDA TSUMAH	“	1.298%

41	MWALIMU JEREMIAH TSUMAH	“	1.298%
42	CHITAI TSUMAH	“	1.298%
43	DANIEL TSUMAH	“	1.298%
44	SUSAN MULONGO TSUMAH	“	1.298%
45	MARIAM MEDZA TSUMAH	“	1.298%
46	KABUNDA TSUMAH	“	1.298%
47	EVERLYNE MGENI TSUMAH	“	1.298%
48	ESTHER MEDZA TSUMA	“	1.298%
49	PRISCILLAR ARTHUR TSUMAH	“	1.298%
50	JEREMIAH MWANDENGE TSUMAH	“	1.298%
51	CLEMENCE TSUMAH	“	1.298%
52	DANIEL BEZANA TSUMAH	“	1.298%
53	ALBERT ARTHUR TSUMAH	“	1.298%
54	MARTHA TSUMAH	“	1.298%
55	VICTORIA TSUMAH	“	1.298%
56	NAOMI TSUMAH	“	1.298%
57	NAOMI MBUYU TSUMAH	“	1.298%
58	BETTHY ARTHUR TSUMAH	“	1.298%
59	MARY TSUMAH	“	1.298%
60	RUTH BAHATI TSUMAH	“	1.298%
61	JOSEPH MAWEDI TSUMAH	“	1.298%
62	NICODEMUS TSUMAH	“	1.298%

63	MAGDALENE TSUMAH	“	1.298%
64	ESTHER NZITSAA TSUMAH	“	1.298%
65	ENOCK ARTHUR TSUMAH	“	1.298%
66	CHAKA TSUMAH	“	1.298%
67	JEREMIAH SHEVUDI TSUMAH	“	1.298%
68	ARTHUR JEREMIAH TSUMAH	“	1.298%
69	FRANCIS BARAKA TSUMAH	“	1.298%
70	MZUNGU JEREMIAH TSUMAH	“	1.298%
71	MARTIN JOMO TSUMAH	“	1.298%
72	MUUOMBO TSUMAH	“	1.298%
73	ALFRED VUKO TSUMAH	“	1.298%
74	GLADYS KABIBI TSUMAH	“	1.298%
75	JOSEPH MUNGA TSUMAH	“	1.298%
76	HARUN TSUMAH	“	1.298%
77	JOHN GITAU	“	1.298%
78	JANET CHIZI TSUMAH	“	1.298%

DATED, SIGNED AND DELIVERED AT MALINDI THIS 4TH DAY OF NOVEMBER 2020

.....

R. NYAKUNDI

JUDGE