

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

SUCCESSION CAUSE NO.462 OF 1996

IN THE MATTER OF THE ESTATE OF MORURI NYAKUNDI – (DECEASED)

AND

IN THE MATTER OF PETITION FOR LETTERS OF ADMINISTRATION INTESTATE

AND IN THE MATTER OF; ANNAH MONYENCHE OMARIBA.....1ST PETITIONER

MONICAH KEMUNTO OMARIBA.....2ND PETITIONER

RULING

1. By an application dated the 7/12/2018 the applicant **Monicah Kemunto Omariba** one of the administrators of the estate of **Moruri Nyakundi** seeks to have the grant of letters of administration issued on the 18/10/2018 to be confirmed. The grant was issued to the 2 petitioners **Monicah Kemunto Moruri** and **Annah Monyenche Omariba**. In her affidavit in support of application the applicant states that the estate of the late **Moruri Nyakundi** comprises of **L.R. No. Central Kitutu/Ikuruma/19 measuring 1.9Ha**. Monicah is the daughter of the deceased. Annah is the widow of the deceased. Monicah proposes that the entire estate be shared on equal basis as per Section 4 of the Law of Succession Act Cap. In her affidavit on the mode of distribution she proposes at paragraph 4 that the land parcel which measures 1.9 Ha (2.22acres) be shared equally with each beneficiary getting 0.19 Ha (0.469 acre).

2. **Annah Omariba** filed her affidavit titled *confirmation of fact* dated 30/10/2019. In it she states that she has conceded to giving the children of the 1st home their portion in respect of the deceased and that the said children of the upper house shall occupy the upper part and she will remain with the lower part which is in her dwelling. Mr. Nyambati consulted his client Monicah who was in court and he told the court that the parties are in agreement. My understanding is that the parties have no objection to sharing the property in equal portion within the portions of the parcel of land where they are with that in mind the grant issued on the 18/10/2018 to **Annah Monyenche Omariba** and **Monicah Kemunto Moruri** shall be confirmed and the estate shall be determined as stated at paragraphs 4 (a) to (j) in the affidavit of the of distribution filed by **Monicah Kemunto Omariba** dated the 7/11/2018. Since this is a family matter each party shall bear their own costs.

Dated, signed and delivered at Kisii on the 1st day of November 2019.

R.E. OUGO

JUDGE

In the presence of;

Petitioners Present

Mr. Nyambati for the Petitioners

Ms. Rael Court Clerk