



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU
SUCCESSION CAUSE NO. 29 OF 2005
IN THE MATTER OF ESTATE OF M'MWERERIA IKOTHA (DECEASED)

SILAS KOBIA M'MWERERIAPETITIONER

VS

CHARITY NKIROTE MAINGI.....OBJECTOR

RULING

The deceased herein died on 9th March 1994 and was survived by:-

1. Ndumba M'Mwereria
2. Julius Ntoiti M'Mwereria
3. Agnes Ruguru M'Ibui
4. Muriungi M'Mwireria
5. Henry Muruingi
6. Kobia M'Mwereria
7. Stanley Mwongera
8. Stanley K. Mwiti

The asset forming entire estate is L.R. Kiegoi/Kunyanka/935. Gervasio Ndumba petitioned for Letters of Administration which were granted on 15th November 2003.

Grant was confirmed on 11th October 2006 wherein distribution was done as follows:-

1. Julius Ntoiti got 0.12 acres
2. Agnes Rugeru – 0.30 acres
3. Muruingi-0.50
4. Henry Muruingi – 0.15
5. Kobia – 0.50
6. Stanley Mwongera – 0.15

7. Stanley K Mwiti – 0.20 acres.

Upon the death of Gervasio Ndumba M’Mwereria on 30.5.2014 Silas Kobia and another of deceased persons sons took over the administration and an application rectify grant dated 17th July 2014 was made and allowed as no beneficiary objected. It is shown that the applicant was Silas Kobia the new administrator. The effect of the rectification was as follows:-

Agnes Ruguru – 0.30 acres

Stanley K. Mwiti – 0.20acres

Ntangui Mburunga – 0.20 acres

Joseph Muringi – 0.30 acres

Kimathi Charles – 0.15 acres

Silas Kobia – balance- unspecified.

By an application dated 10th May 2016 Henry Muringi sought that the Administrators Silas Kobia be inhibited from disinheriting them by disposing of the land that forms the estate. He said in the supporting affidavit that Silas Kobia caused grant to be rectified and excluded him and other beneficiaries from the estate and had threatened to sell the land in question. A letter was written by Chief of Kanthiari Location dated 29th April 2016 and gave a fresh list of beneficiaries as follows:-

1. Sarah Kanyenye Ndumba
2. Domitila Karimu
3. Agnes Ruguru
4. Muriungi M’Mwereria
5. Kobia M’Mwereria
6. Henry Muriungi
7. Stanley Mwongera
8. Stanley K. Mwiti
9. Charity Nkirote
10. Naftally Kiremi

By an order given on 12th May 2016 all dealings on L.R. No. Kiegoi/Kinyanka/935 were inhibited. Henry Muringi and Silas Kobia withdrew the application dated 10.5.2016 on 24th May 2016. Charity Nkirote Maingi objector in application dated 5th October 2016 purchased land from Stanley Mwongera and Henry Muringi sons of the deceased and she sought that dealings in deceased persons land be inhibited. She said that she bought 0.30 acres. Silas the current administrator denied that Staley Mwongera and Henry Muringi who are alleged to have sold land to charity Nkirote were his brothers although they are in list of beneficiaries in the chiefs letters. Several other interested parties appeared in court to say they bought land from the sons of the deceased but it appears they didn’t file any pleadings to that effect. This court referred the parties to chief of Kanthiari location to resolve the impasse and the chief wrote a report of the minutes of meeting of 18th April 2018 conducted at his office confirming the deceased persons daughter in law Sarah Kanyenye should be given 0.02 acres as she had been left out. It was also resolved that Agnes Ruguru had ownership documents and it was resolved she should be given what is due to her. Application by Charity Nkirote dated 5th October 2016 is dismissed. She should pursue the persons who sold to her land in another forum and not in this succession cause. The deceased persons daughter in law Sarah Kanyenye to be given 0.02 acres out of L.R. Kiegoi/Nkenyanka/935 out of the balance that is due to Silas Kobia. That portion of 0.02 acres to be held in trust by Sarah for herself and her children.

No orders as to costs.

HON. A.ONG’INJO

JUDGE

Penina Court Assistant

Applicant – Charity Nkirote – No appearance

Silas Kobia No appearance

RULING SIGNED, DELIVERED AND DATED THIS 5TH DAY OF JULY 2018 IN COURT.

Notice to issue to parties by DR

HON. A.ONG'INJO

JUDGE