



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 510 OF 2004

IN THE MATTER OF ESTATE OF KIAMBATI MATAGU - (DECEASED)

JACOB MURURU M'KIAMBATI.....PETITIONER

VS

ISIAH KINYUA LUULU.....1ST RESPONDENT

JEDIEL LUULU.....2ND RESPONDENT

RULING

The deceased Kiambati Matagu died on 28th October 1969 and was survived by:-

1. Zipporah Ciomarimba – wife
2. Francis Gichunge – Son
3. Lesany Mioki – Son
4. Julius Mbaabu – Son
5. Joseph Muringi – Son
6. Stephen Meeme – Son
7. Japhet Luulu – son – deceased.
8. Jacob Mururu – son
9. Geoffrey Kanyana

His intestate net estate is made up of L.R. Njia/Luburio/101. Grant of Letters of Administration was made on 19th April 2005 to Jacob Mururu M'Kiambati.

Distribution of the estate was done on 13.11.2006 as follows:-

- Julius Mbaabu – 1 acre
- Stephen Meeme – ½ acre
- Joseph Muringi – 1 acre
- Jacob Mururu – 2 ½ acres
- Geoffrey Kanyano – 1 ½ acres

Isaiah Muriungi/Maria – 0.10 acre

Jacob Mururu M’Kiambati – Balance

Certificate was issued on 14th February 2007.

On 18.5.2007 the grant was revoked as distribution left out Japhet Luulu who was shown in the chief’s letter dated 27th April 2004 as son to the deceased. That the estate of the said Japhet Luulu was not provided for.

In consideration of the order made on 18th May 2007 and in consideration of the protest to confirmation and distribution herein by Isaiah Kinyua Luulu and in consideration of the submissions for and against protest, I have seen that the mode of distribution in affidavit of Jacob Mururu M’Kiambati which now the share included for the interested parties fathers share from L.R. No. Njia/Luburu/101 is fair and equitable because the other averments in the affidavit have not been challenged.

This mode of distribution was signed by the majority of beneficiaries and clan elders after the initial grant was revoked. If L.R. 101 was to be distributed equal to the beneficiaries listed in the chief’s letter the share for the late Japhet Luulu would reduce significantly and may not be of any economic benefit to his children and wife. This court therefore orders that the one acre share belonging to the late Japhet Luulu son to the deceased herein shall be held by Isaiah Kinyua Luulu in trust for his siblings in equal shares upon the beneficiaries petitioning for Letters of Administration.

No orders as to costs.

HON. A.ONG’INJO

JUDGE

RULING SIGNED, DELIVERED AND DATED THIS 13TH DAY OF JULY 2018

IN THE PRESENCE OF:

C/A:- Penina

Petitioner: - Mr Ojiambo Advocate holding brief for Rimita Advocate for Petitioner.

Respondent :- Ms Okello holding brief for Mutegi for Interested Party.

HON. A.ONG’INJO

JUDGE

Ms Okello

We pray for a copy of the said judgement.

Order

Interested Party/Protesters counsel to be supplied with copy of judgement of copying charges.

HON. A.ONG’INJO

JUDGE