



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

SUCCESSION CAUSE NO. 376 OF 1983

JAMES KAMAU GICHERU.....APPLICANT/CO-ADMINISTRATOR

-VERSUS-

STANLEY MATHU GICHERU.....1ST RESPONDENT/CO-ADMINISTRATOR

MOSES MUTHIORA GICHERU..2ND RESPONDENT/CO-ADMINISTRATOR

MARY WANJIKU GICHERU.....3RD RESPONDENT/CO-ADMINISTRATOR

R U L I N G

1. The deceased Peter Gicheru Kagocho died on 29th April, 1979 intestate leaving behind two widows; Susan Wairimu Gicheru and Karen Wambui Gicheru.
2. The grant herein was confirmed on the 8th of February 1989 and further rectified on 25th October, 2011 wherein property was shared according to the two houses of the widows above mentioned.
3. The children of Susan Wairimu Gicheru are currently embroiled in a tussle in relation to the properties that their mother held in trust for them, they are in the process of distribution and it appears that James Kamau Gicheru is not in agreement with some beneficiaries, whereas the daughters claim to have been left out. Two proposed mode of distribution have been filed.
4. James Kamau Gicheru filed an application dated 27th March, 2017 where he sought for:
 - **Temporary injunction and/or conservatory orders to issue restraining the co-administrators/Respondents from collecting monthly rent, interfering and/or wasting properties Nos. 36/111/88, Kiambu Plot No. 134, Kiambu Lock up 79, Ting'ang'a Plot No. 6, dividends from New Pillion Estate; Gatatha Farmers Company Ltd; Lioki Estate Ltd and, Kiamumbi Multipurpose Society pending determination of the suit.**
 - **Orders that M/s Stegian Commercial Agents/or himself appointed to collect rent from the above properties.**
 - **Order directing the Respondents to provide statements of accounts from 1980 to date.**
 - **Costs.**

In his submissions the Applicant argued that the Respondents/co-Administrators have been collecting rent due to the Estate and applying the same to their use. He desired to have accounts rendered before the issue of distribution is dealt with.

5. Mr. Ojienda for the beneficiaries relied on the reply affidavit of Mary Wanjiku Gicheru sworn on 26th April, 2017. In the said affidavit the deponent decries the fact that her brothers divided the properties to the exclusion of daughters. She deposed that that rent is collected and distributed amongst the brothers. Further that plot no. 30/111/88 is occupied by one of the administrators and his children, Plot No. 79 Ting'ang'a Plot 11 and 6 where rent is collected by one Stephen Kinoro Gicheru. Further, that some properties that belong to the estate have been sold.

6. Mr. Njenga for the other administrators on his part confirmed that indeed rent is being collected by different individuals having interest in the estate though no response to the application was filed by them. The assertion was made from the bar.

7. Having heard representations by all concerned I am in agreement with the applicant to extent that there is need for accountability before distribution. Further it is my view that the exercise of accounting once undertaken will enable the court to fairly and justly consider the issue of distribution amongst all the children of Susan Wairimu Gicheru. For this reason, the Administrators and/or other beneficiaries who have received and/or collected rent form the estate are hereby directed and ordered to file accounts within the next 21 days of the date hereof.

8. And further due to the existing wrangles among the beneficiaries from Susan Wairimu's house and in order to be fair to all the beneficiaries I will order and direct that the administrators do furnish the court with the name of a reputable management company that will manage and collect all rent due to the estate pending further orders. The name be made available within 7 days of the date hereof.

9. Submissions on mode of distribution will await compliance of orders 7 and 8 above.

DATED, SIGNED and DELIVERED at NAIROBI this 17th DAY OF September, 2018.

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ALI-ARONI

JUDGE