



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**SUCCESSION CAUSE NO. 307 OF 2007**

**IN THE MATTER OF THE ESTATE STEPHEN MURUNGI GWABI (DECEASED)**

**RULING**

1. The deceased herein died on 9<sup>th</sup> September 2006.
2. Representation to the estate was sought in the matter in a petition filed herein on 13<sup>th</sup> February 2007 by Aniceta Mumu, in her purported capacity as widow of the deceased. According to the petition, he was expressed to have been survived by his widow and four children: William Gitonga, Christine Wendy Nkatha, Angela Muthoni and Nkonge Murungi. He was said to have died possessed of Buru Buru Phase 1 Block Nairobi/73/295, Kakamega Municipality Block II/177, Meru Municipality Block II/129, money in Barclays Bank, National Bank and Housing Finance, shares with Kenya Airways and motor vehicle registration mark and number KDY 958. A grant of letters of administration intestate was made on 28<sup>th</sup> May 2007.
3. The grant was confirmed on 14<sup>th</sup> April 2008; vide an application dated 19<sup>th</sup> March 2006. The estate was wholly devolved upon the widow, Aniceta Mumu, to hold the same in trust for the four children in equal shares. A certificate of confirmation of grant in those terms was duly issued.
4. The widow passed away on 17<sup>th</sup> January 2010. This necessitated her substitution as administrator and review of the distribution of the estate in view of the termination of life interest. Orders in that direction were sought through an application dated 5<sup>th</sup> November 2010. The application was allowed on 15<sup>th</sup> March 2011, and all the children of the deceased were appointed administrators, and the grant of 28<sup>th</sup> May 2007 was amended to reflect that change. The distribution order was also reviewed so that the trust was removed and the estate ordered distributed equally between all four children. The certificate of confirmation of grant on record was amended to incorporate those terms and was issued on 15<sup>th</sup> March 2011.
5. The application for determination is dated 19<sup>th</sup> March 2014. It is brought at the instance of one of the administrators of the estate who seeks orders that moneys being held at a certain bank account being sale proceeds in respect of the disposal of Kakamega Municipality Block II/177 be released for distribution amongst the beneficiaries. The said property had been sold and the proceeds held in a bank account in the joint names of the advocates representing the two sets of administrators. It is averred that the money ought to be distributed equally amongst the four administrators/survivors. The snag has been that one of the administrator's advocates has refused to cooperate claiming that the other administrators had to pay his client his quarter share of the sale proceeds in respect of Buru Buru Phase 1 Block Nairobi/73/295 despite that property not having been sold.
6. The respondent swore two affidavits in response. His case is that there never was any agreement as to when the sale proceeds on Kakamega Municipality Block II/177 were to be distributed. He has also deposed on his claims to the Buru Buru property.
7. When the grant herein was confirmed, it was directed that the estate be distributed equally as between all the four children of the deceased. All the assets were to be shared equally. Kakamega Municipality Block II/177 has been sold. The proceeds of sale therefrom ought to be distributed equally amongst the survivors. The confirmation orders did not impose any conditions on the distribution proposed.

8. I do find merit in the application dated 19<sup>th</sup> March 2014. The same is hereby granted in the terms proposed in paragraph 2 thereof. The applicant has not asked for costs and none shall be ordered. It is so ordered.

**DATED, SIGNED and DELIVERED at NAIROBI this 20<sup>TH</sup> DAY OF JANUARY, 2017.**

**W. MUSYOKA**

**JUDGE**