



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
SUCCESSION CAUSE NO. 265 OF 2015

IN THE MATTER OF THE ESTATE OF M'MUTHUIRU BAIMANYARA - DECEASED

AND

KABITU M'ABUANGE M'MUTHUIRU.....PETITIONER

RULING

I have considered the testimonies of the combatants in this matter. It is clear that from their testimonies, the grant issued in Maua Chief Magistrate's Court Succession Cause No. 58 of 2010 was obtained through misstatements or fraud. It is clear that the deceased left the following surviving him:-

(a) Ntonja M'Muthuiru (deceased)

Widow - Inombabu Ntonja

Children - Eric, Mutuma and Winnie Mwari

(b) Ntoitha M'Muthuiru (deceased)

Child - Kalulu Ntoitha

(c) Kabilu M'Muthuiru

(d) Meme M'Muthuiru

(e) M'Mithega M'Muthuiru

(f) Francis Miriti M'Muthuiru

(g) Makara M'Muthuiru

The matter in the Lower Court excluded all the beneficiaries save for the Respondent and one child of Ntonja by the name Eric Mutuma.

Accordingly, that grant is hereby revoked and the confirmation set aside.

There is dispute as to whether the late Makara M'Muthuiru left any estate.

The Orders that commend themselves to me is as follows:-

(a) the grant issued by Chief Magistrate's Court, Maua on 16/6/2011 is hereby revoked and the confirmation set aside;

(b) let the Court hear the Petition on the succession of the estate of the late M'Muthuiru Baimanyara afresh and since all the beneficiaries before me including the Respondent have agreed that Kabilu M'Abunge M'Muthuiru be appointed the administrator, let that court ascertain his suitability;

(c) Let that Court ascertain whether the late Makara M'Muthuiru left any estate (i.e. left anyone surviving him);

(d) the beneficiaries set out above are entitled to share in the estate when it is ultimately distributed. This Ruling be served upon the Maua Court.

Orders accordingly.

DATED AND DELIVERED AT MERU THIS 6TH DAY OF MARCH, 2017.

A. MABEYA

JUDGE

06/03/2017