

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 218 OF 2007

IN THE MATTER OF THE ESTATE OF HABIBA WANJELA KALAMDIN (DECEASED)

RULING

1. On 18th December 2015 I delivered a ruling where I made the following orders:-

(a) That the land registrar responsible for Thika district registry is directed to remove a caution lodged against Ruiru East/Block 1/205;

(b) That Razia Kalamdin Mohamed to vacate the premises No. D13/5 Huruma/Mathare Valley within thirty (30) days from 16th December 2015;

(c) That the police facilitate compliance with (b) above; and

(d) That the administrators to file two separate accounts within thirty (30) days from 16th December 2015 failing which the grant was to stand revoked.

2. The matter was to be mentioned after thirty (30) days for compliance. The matter was mentioned severally thereafter.

3. There has been compliance with the order on accounts with respect to the sale of Ruiru West/Block 1/1956. The administrators swore an affidavit on 14th January 2016, where they explained the circumstances under which Ruiru West/Block 1/1956, a copy of the sale agreement is attached and there is an account of how the sale proceeds were shared out. Habiba Kalamdin Mohamed filed a supplementary affidavit on 27th January 2016 on the same matter.

4. To that account Mohamed Kalamdin swore an account on 3rd March 2016 asserting that Ruiru West/Block 1/1956 was sold without a court order or consent of the parties. He also questions the manner the sale proceeds were distributed. He also raises questions about ICDC and BAT shares.

5. There is also a further affidavit sworn on 11th May 2016 by Zabina Kalamdin Mohamed. She explains that Ruiru West/Block 1/1956 was sold with the consent of all the beneficiaries, including Mohamed Kalamdin. She also explains the principles that guided distribution of the sale proceeds. She also indicates the number of shares in ICDC and BAT.

6. Razia Kalamdin Mohamed swore an affidavit on 18th May 2016. She informs the court that she vacated No. D13/5 Huruma/Mathare Valley as ordered. She also laments that the administrators had failed to file a comprehensive account.

7. I am satisfied that the orders made on 18th December 2015 have been complied with. The administrators have filed accounts. It is not for me to assess whether the same are adequate or not. I shall leave it to the beneficiaries who feel that the same are not adequate to move the court appropriately.

DATED and SIGNED at NAIROBI this 3RD DAY OF MAY, 2017.

W. MUSYOKA

JUDGE

DELIVERED and SIGNED this 5TH DAY OF MAY, 2017.

M. MUIGAI

JUDGE