



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUNGOMA
SUCCESSION CAUSE NO. 85 OF 2000

IN THE MATTER OF ESTATE OF JACOB NASOKHO.....DECEASED

AND

CHRISTOPHER F.S. NASOKHO)

KENNEDY KWIBA NASOKHO).....PETITIONERS

VERSUS.

JOHN NYONGESA NASOKHO.....OBJECTOR

RULING.

[1] **JACOB NASOKHO** (deceased) died on 12th June, 1997 and his two sons **CHRISTOPHER NASOKHO** and **KENNEDY KWIBA NASOKHO** petitioned for grant of letters of administration for his estate which was issued to them on 16th August, 2000 by Mbitio (Judge) and confirmed on 7th June 2004 by Sergon (Judge).

On 8th November, 2013 **JOHN NYONGESA NASOKHO** applied for revocation/annulment of the grant and arguing that the said grant was secretly obtained without his consent, and other surviving beneficiaries. He argued on 7th June 2004, the petitioners had already transferred the land into their names on 09/03/1999 as per the green card.

The objector's contention is that he too is a son of the deceased who apart from the petitioners, was survived by the objectors

- (1) DISMAS NASOKHO**
- (2) ROSEMARY NASOKHO**
- (3) ZIPORAH NASOKHO**
- (4) JANEROSE NASOKHO**
- (5) PETRONILLAH NASOKHO**
- (6) DORIS NASOKHO**
- (7) AGNES NASOKHO**

(8) NABALEYO NASOKHO

(9) VIGINEER NASOKHO

(10) MARY NASOKHO

The objector described himself as the elder son of the deceased who ought to have been consulted before the petition was filed.

The Petitioners had stated in the affidavit supporting their petition for confirmation of grant that the deceased was survived by themselves namely;

(1) CHRISTOPHER T.S. NASOKHO

(2) MARY NASIMIYU NASOKHO

(3) IMELDA NAMALWA

(4) HILDA NAFUNA NASOKHO

(5) PHANIS NALIAKA NASOKHO

(6) KALEP KILWAKE NAMITATI

(7) ELIZABETH SITAWA

(8) CHEBUKWABI FRIENDS CHURCH

The asset Parcel No. KIMILILI/KIBINGEI/420 was distributed as follows;

(1) CHRISTOPHER F.S. NASOKHO	16 acres
(2) MARY NASIMIYU NASOKHO	2 acres
(3) IMELDA NAMALWA	2 acres
(4) HILDA NAFUNA NASOKHO	1 acre
(5) PHANIS NALIAKA NASOKHO	1 acre
(6) KENNEDY KWABA	3 acres
(7) KALEP KILWAKE NAMITATI	5½ acres
(8) ELIZABETH SITAWA	1 acre
(9) CHEBUKWABI FRIENDS CHURCH	¼ acre

Apparently the petitioners left out their other siblings listed by the objector in the list of beneficiaries and even in the distribution of the asset which measured 12.2 Ha valued at over Kshs.2.5 million.

Since the respondents have pursuant to the grant registered themselves by transmission as proprietors of the deceased's parcel of land, this court is urged to order cancellation of such registration and that the title do revert to the names of the deceased.

[2]. The respondents/petitioners opposed the prayers and in a replying affidavit sworn by **KENNEDY**

KWOBA NASOKHO he termed the application as incompetent, misconceived and an abuse of court process saying there was inordinate, unexplainable and inexcusable doing of 11 years. Further that the application was res judicata as a similar one had been dismissed with costs on 22nd May, 2001.

They contend that the applicant is not a son of the deceased and has no locus standi to file this application nor were they under any legal obligation to inform him about the petition as he is a stranger to the estate. They insist that the grant was obtained in good faith after full disclosure of the facts and nothing material was concealed.

The matter proceeded by way of affidavits and witness statements only - no other arguments were presented by consent. The objector relied on a letter dated 14/06/2017 written by the assistant chief of **CHEBUKWABI** Sub-location but the name is not clear. It only lists the objector as the son of the deceased. This letter is unsatisfactory – it does not state whether the deceased had another wife or who the other siblings of the objector were. I would expect the letter to list the wife or wives of the deceased and their children – the manner in which the letter is drafted is self-serving and does not aid the court in making a conclusive decision about the alleged non – disclosure.

Who is or was the objector's mother, was she also the mother of the petitioners – this application leaves more questions than answers in the light of the denial by the petitioners. Just who is the objector and how is it that his other siblings have not filed any statement to support his claims.

I find no reason to interfere with the grant issued and the application filed herein is dismissed with costs to the petitioners.

Delivered and dated this **14th** day of **July**, 2017 at **Bungoma**.

H.A. OMONDI

JUDGE.