



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUNGOMA

PROBATE & ADMINISTRATION CAUSE NO. 166 OF 1998

IN THE MATTER OF THE ESTATE OF THE LATE ALUMASI MAUNDA WAKONGOBA

FRANCIS MASETE MAUNDA..... PETITIONER/RESPONDENT

VERSUS

VINCENT WEKESA MAUNDA OBJECTOR/APPLICANT

AND

JOSEPH WAFULA MAUNDA INTERESTED PARTY

RULING

1. The application before court is dated 27th October, 2015 seeking to have the cause confirmed, based on the elder's findings and the surveyors report.
2. The application is grounded on the grounds that;
 - i. Neither the objector nor the petitioner have moved the court since the annulment of the earlier grant on 13th June, 2000,*
 - ii. The surveyors report of 10th November 2000 ascertained the share of each beneficiary.*
 - iii. The petitioner is 90 years and ailing. Whereas the applicant is 85 years and desirous of bringing the matter to a closure.*
3. In the supporting affidavit the applicant states that as at the time of his death the deceased had identified for each beneficiary their portions and two of his children who were then under age had their shares held by their respective mothers.
4. The application has been supported by the following beneficiaries namely
 - i. Moses Wafula Juma (grandson)
 - ii. Francis Masita Maunda (son)
 - iii. Martin Shikuku Maunda
 - iv. George Wekesa (grandson)

v. Francis Masete Maunda (son)

5. There were also witnesses who confirmed that the deceased did distribute the estate. The same are'

i. Ayub Makipisi Riperi

ii. Jackson Makokha Kimingisi

6. The objector is the only one opposed to the confirmation in terms of the surveyors report. His initial objection was because he had not been involved in the succession proceedings; he had not been given his share and he then lived with his mother.

7. In revoking the grant Mbito J, observed that the grant ought not to have been confirmed in the first instance as individual shares had not been identified. He directed the administration to identify shares and thereafter apply for confirmation.

8. I have considered the evidence on record, affidavit for and against confirmation based on the surveyor's report and take cognisance of the fact that the surveyors report identified 11 beneficiaries including the objector and it gives details of those who have derived title from the said beneficiaries either by inheriting or purchasing. The identified beneficiaries are;

1. Francis Masete

2. Joseph Wafula

3. Vincent Maruti

4. Geoffrey Wanjala

5. Martin Sikuku

6. Teresa Naliaka

7. Salim Juma (deceased)

8. Isaac Masurutys

9. James Wekesa (deceased)

10. Vincent Wekesa &

11. Wanyonyi Masinde.

9. The deceased died in 1980 that is 36 years ago and parties are yet to obtain title. At the point of revoking the grant the court on the 13th of June, 2000 – 16 years ago directed identification of shares.

10. It is high time that this matter was settled. I do not find any viable objection by the objector while the grant should not be confirmed. He complains of third parties disputed to the beneficiaries. In any event from the evidence on record he has sold his entire share and has absolutely no interest in the estate.

11. For the reasons above the objection is dismissed. I confirm the grant based on the surveyors report. Costs to be in the cause.

DATED and DELIVERED at BUNGOMA this 10th November, 2016

ALI-ARONI

JUDGE.