



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUNGOMA

PROBATE & ADMINISTRATION CAUSE NO. 93 OF 2003

SUSAN WAKHULUNYA MANG'WANA PETITIONER/APPLICANT

VERSUS

MICHAEL MANG'ANA NAMATSIDECEASED

RULING

1. Before court is an application dated 8th May, 2015 by Elizabeth Tsisiche Mang'wana and Sarah Akinyi Mang'wana, 2nd and 3rd widows of the deceased Michael Mang'ana Namatsi as against the 1st widow and administrator of the estate Susan Wakhulunya Mang'wana for orders;

i. That there be revocation of grant issued to Susan Wakhulunya on 22nd February, 2012 and any other grant.

ii. That all buyers of the suit land from the date 1st grant issued on 22.9.2011 as well as their registration be revoked.

iii. That there be fresh distribution of the deceased estate to accommodate the interest of the applicants.

iv. That the administrator be mandated to give account of the distribution and administration of the estate to date.

v. Further and other orders

vi. Costs.

2. The application is based on the grounds that; the deceased estate comprised of 165.25 acres; the applicants as widows are entitled to shares in the estate; the administrator failed to administer the estate in accordance with the law and has sold portions of the estate;and distribution has not been equitable.

3. In a replying affidavit dated 26th May, 2016 the administrator confirmed that the estate comprised of 165.25 acres. She however alleged that the 2nd widow was settled in Tongaren on approximate 50 acres whereas the 3rd was settled on land reference Manama/Shinamwenyuli/940 measuring 7 acres; further that the 2nd widow had allocated to her a 2 bedroomed house in Woodley Nairobi and an apartment; she further stated that in his lifetime the deceased sold a large portion of Bungoma/Kiminini/67 almost 80% and that on her part she only sold 31.06 acres of the same.

4. From the record all the 3 widows including representatives of buyers appeared before Mabeya J, on the 10th of October, 2014 and by consent the parties confirmed that beneficiary buyers' total acreage was 111.875 acres. They agreed further that the balance of 31 acres was to be shared among family members.
5. From the affidavit of the 1st widow it is not clear when the 31 acres were sold.
6. The parties agreed that the grant confirmed on the 22nd February, 2012 was the one applicable for purposes of distribution. The same has not been revoked or amended save for corrections made to the shares of Francis Mudibo Wamalwa and Peter Ongaya Ayub. I therefore reiterate that the same is what should be used for distribution of the estate.
7. Consequently, the 2nd & 3rd widows being the applicants herein are hereby made co-administrators with the 1st widow to oversee distribution of the estate in strict compliance with the grant.
8. Any sales, transfers and or titles acquired outside the grant be and are hereby revoked.
9. The petitioner to meet the costs of this application, since the administrator has failed to comply and apply the said grant.

DATED and delivered at BUNGOMA this 3rd day of November 2016

ALI-ARONI

JUDGE.