

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

PROBATE AND ADMINISTRATION DIVISION

SUCCESSION CAUSE NO. 3095 OF 2013

IN THE MATTER OF THE ESTATE OF MARY NJOKI NJOROGE (DECEASED)

GEOFFREY KINUTHIA NJOROGE1ST OBJECTOR/APPLICANT

MOSES NGUGI NJOROGE2ND OBJECTOR/APPLICANT

VERSUS

FLORENCE WANGECI NJOROGERESPONDENT

R U L I N G

1. A grant of Letters of Administration intestate to the Estate of Mary Njoki Njoroge who died on 1st March 2013 was issued to Geoffrey Kinuthia Njoroge and his sister Florence Wangechi Njoroge on 14th March 2013 and has not been confirmed. On 17th July 2014 Geoffrey Kinuthia Njoroge and Moses Ngugi Njoroge filed Summons under section 26 of the law of Succession, seeking orders that reasonable provision be made for the second beneficiary, a dependant of the deceased, out of the net estate in accordance with a proposed mode of distribution that they provided.
2. The summons is grounded on allegations that the mode of distribution proposed by his co-administrator does not reflect the wishes of the deceased, who had specifically distributed the Estate before her death. He also states that the sustenance of the second Applicant is dependant on the Estate of the deceased.
3. In the supporting affidavit sworn by the first Applicant on 16th July 2014, it is deponed that while she was alive the deceased distributed her property known as L.R. No. Karai/Karai 607. The Applicant deponed that the two witnesses of such distribution are one T. Kiarie and Joseph Kinuthia Njoroge their half-brothers, who were present when their late mother divided and distributed her land.
4. The Applicant states that his brother's current and future needs can only be met vide his use of the land constituting his late mother's Estate as opposed to their sisters who have leased out one acre of the land and cultivate one acre for extra income while they have alternative abodes and engagements. He asserts that these sisters, other than Florence Wangechi Njoroge, have other income and their circumstance in life are not such as to cause them to depend upon their late mother's Estate.
5. Strictly speaking this is not an application that should have been brought under Section 26 of the law of Succession. This should have been filed as the alternative proposal to the mode of distribution filed by the Co-Administrator.
6. In the premise I order the two Co-Administrators to file for confirmation of grant in the High Court with an agreed proposal to the mode of distribution, failure to which each Administrator to file separate proposals for the distribution of the Estate.

SIGNED DATED and DELIVERED in open court this **11th** day of

March 2015.

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L. A. ACHODE

JUDGE