



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
SUCCESSION CAUSE NO. 1086 OF 2003
IN THE MATTER OF THE ESTATE OF SOLOMON NGETHE NGANGA (DECEASED)
RULING

1. The deceased herein died on 13th January 1997.
2. Representation to his estate was sought vide a petition lodged in court on 5th May 2003 by the administrators herein who described themselves as his widows. They stated that he was survived by the following individuals-
 - a. **Eliza Waithera Ngethe – widow**
 - b. **Peninah Njeri Ngethe – widow**
 - c. **Andrew Ng’ang’a Solomon – son**
 - d. **Peter Kamau Ngethe – son**
 - e. **Charles Kinyanjui Ngethe – son**
 - f. **Peter Kamau Ngethe – son**
 - g. **Samuel Njubi Ngethe – son**
 - h. **Mary Wairimu Oyuda – daughter**
 - i. **Eunice Wanjiku Ngethe – daughter**
3. He was expressed to have died possessed of a property known as Kiambaa/Kihara/284 and shares in Kenya Fuel & Bark Co Ltd, Bahati Muthingi Nyakinyua Group Co. Ltd and Gatamaiyu.
4. A grant of letters of administration intestate of the estate was made to the widows on 1st July 2003. The grant was confirmed on 25th October 2004 according to the certificate of confirmation of grant of 7th January 2005. The estate was distributed as per the said certificate.
5. On 11th February 2005, Nancy Wanjiru Ngethe lodged a summons for revocation of grant alleging to be a child of the deceased who had been left out in the distribution. The said application was resolved by consent when it was recorded on 18th February 2013 that she be included as a beneficiary of the estate. It

was further agreed that the administrators do file a fresh mode of distribution of the estate.

6. The administrators did comply with the orders of 18th February 2013 by filing affidavits on distribution. The two similar affidavits of Eliza Waithera Ngethe and Peninnah Ngethe were sworn on 30th May 2013 and filed herein on 31st May 2013.

7. The administrators have taken the position that they distributed the estate of the deceased in accordance with his wishes. Fundamentally, they state that she benefited from an *intervivos* transfer of property known as Kiambaa/Karura/1556.

8. Nancy Wanjiru Ngethe has not sworn an affidavit in reply to the affidavits of the administrators, instead she drew a witness statement and filed it in court on 7th August 2014 in compliance with directions given by Muchelule J. of 28th July 2014.

9. In view of the issues raised in the affidavits of the administrators, I am of the opinion that the matter be disposed of by way of oral evidence as directed by Muchelule J. on 28th July 2014.

10. It is so ordered.

DATED, SIGNED and DELIVERED at NAIROBI this 9TH DAY OF OCTOBER, 2015.

W. MUSYOKA

JUDGE