



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

SUCCESSION CAUSE NO. 501 OF 2013

IN THE MATTER OF THE ESTATE OF KIRAGARA BAGIRI (DECEASED)

HENRY MUTHAMIA RINTAUGUPETITIONER

-VERSUS-

GRACE KAGWIRIAOBJECTOR/APPLICANT

RULING

Distribution of the estate

[1] This ruling relates to distribution of the estate of Kiragara Bagiri, deceased, to all persons entitled to a share of the said estate. The ruling follows after the order of the court made in the judgment delivered on 4th day of June 2015 to the effect that:

a) The petitioner and the objector as joint administrators to forthwith file mode of distribution of the estate jointly or separately within the next 30 days from today.

Petitioner's Preferred Mode of Distribution

[2] The petitioner filed an affidavit in which he set out his preferred mode of distribution. The affidavit was filed on 2nd October, 2015. In the affidavit, he proposed the estate to be distributed as follows:-

L.R NO. ABOTHOGUCI/GITHONGO/416(4 acres)

(a) Joyce Nduru Ringera (mother) – 1 acre

(b) Grace Kagwiria Muriuki - 1 acre

(c) Japheth Mburugu – 2 acres

L.R. NO. ABOTHUGUCHI/GITHONGO/459

(a) Henry Muthamia Rintaugu – 1 acres

(b) Gikunda Kiragara – 1 acres

(c) Julius Murithi Kiragara (deceased) – 1 acres

(d) Charles Mugambi Festus (purchaser) – 2 acres

[3] The petitioner averred that the objector has no share in ABOTHUGUCHI/GITHONGO/459 and that she should desist from interfering with the earlier proposed mode of distribution in respect of this property. According to the petitioner, the proposed mode of distribution of the estates is in line with the agreement of family members.

Objector's Preferred Mode of Distribution

[4] The objector filed her preferred mode of distribution of the estate to be as follows:-

LR.NO. ABOTHUGUCHI/GITHONGO/416 (4 acres)

(a) Grace Kagwiria Muriuki – 1.89 acres

(b) Joyce Nduru – 0.11 acres (50 x 100ft).

(c) Japheth Mburugu – 2 acres

LR. NO. ABOTHUGUCHI/GITHONGO/459 to be shared equally among:

(a) Henry Muthamia Rintaugu

(b) Gikunda Kirigara

(c) Julius Murithi Kirigara

(d) Charles Mugambi Festus.

DETERMINATION

[5] I note that Julius Ndubi Ringera sold his share in ABOTHUGUCHI/GITHONGO/459 to Charles Mugambi Festus. From the record, Charles Mugambi Festus bought two (2) acres. There is no serious objection by any of the parties to Charles Mugambi Festus getting the two (2) acres of land in L.R NO.ABOTHUGUCHI/GITHONGO/459. Accordingly, he receives two (2) acres in ABOTHUGUCHI/GITHONGO/459. And as that was the share of Julius Ndubi Ringera in the estate, the said Julius Ndubi Ringera is deemed to have sold his entire share in the estate property. I have clarified this to avoid any future litigation on the matter or interference by the said Julius Ndubi Ringera with other persons' entitlement and inheritance in the estate.

[6] Therefore, upon consideration of the proposals on distribution of the estate that were made by the Petitioner and the Objector, the following is most equitable distribution of ABOTHUGUCHI/GITHONGO/459, that is to say that:-

a) Charles Mugambi Festus receives two (2) acres – This is the share belonging to Julius Ndubi Ringera but which he sold to him.

b) Henry Muthamia Rintaugu receives one (1) acre;

c) Gikunda Kiragara receives one (1) acre; and

d) As family members seem to have agreed, the estate of Julius Murithi Kiragara receives one

I acre, to be held by the administrators for the beneficiaries of his estate.

[7] I am now turning to L.R NO. ABOTHUGUCHI/GITHONGO/416. It has emerged from the proposals by both administrators that that Japheth Mburugu Ringera should inherit two (2) acres in this property. I hereby confirm that proposal and order that Japheth Mburugu Ringera is entitled to and gets two (2) acres in ABOTHUGUCHI/GITHONGO/416. The deceased left one surviving spouse, namely Joyce Nduru. She is by law entitled to a life interest in the whole residue of the net intestate estate. In her testimony at the hearing of the application for revocation of grant, she seemed not to be keen on her entitlement but the court which is always guided by law directed that her interest and entitlement shall be taken care of when the court shall be determining the distribution of the estate. This is such time. The objector provided the spouse's interest in 0.11 acres (50 x 100ft) to be hived off from the objector's two (2) acres- at least according to her proposal. The petitioner on the other hand proposed that the spouse should get one (1) acre in this land.

[8] I note that the other two surviving sons got two(2) acres each. The Objector is the wife of the son of the deceased although the son is also deceased. In these circumstances, the most equitable distribution is to give the objector one and a half (1 ½) acres in ABOTHUGUCI/GITHONGO/416 and the remaining one half (½) acre to Joyce Nduru for her life interest and use. Accordingly, L.R NO. ABOTHUGUCI/GITHONGO/416 shall be shared as follows:-

- (a) Grace Kagwira Muriuki – 1 ½ acres
- (b) Japheth Mburugu – 2 acres
- (c) Joyce Nduru – ½ acre

Dated, Signed and Delivered in open court at Meru this 2nd day of November 2015.

F. GIKONYO

JUDGE

In the presence of:

All parties

F. GIKONYO

JUDGE