



REPUBLIC OF KENYA



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**In re Estate of Gerishom Mugeheli Manani (Deceased) (Succession Cause  
671 of 2010) [2014] KEHC 2274 (KLR) (16 October 2014) (Ruling)**

*Erica Azenga Mugeheri v Mable Musinzi Lumula [2014] eKLR*

Neutral citation: [2014] KEHC 2274 (KLR)

**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT KAKAMEGA**

**SUCCESSION CAUSE 671 OF 2010**

**SJ CHITEMBWE, J**

**OCTOBER 16, 2014**

**IN THE MATTER OF THE ESTATE OF GERISHOM MUGEHELI MANANI (DECEASED)**

**BETWEEN**

**ERICA AZENGA MUGEHERI ..... APPLICANT**

**AND**

**MABLE MUSINZI LUMULA ..... RESPONDENT**

**RULING**

1. The deceased, Gerishom Mugeheli Manani died on 1/5/2006. This court made a finding that the children of the objector who are the deceased's grand children are dependants and entitled to inherit from the deceased's estate. The main issue for determination is how the deceased's estate should be distributed. From the pleadings and evidence on record, I am satisfied that the petitioner also contributed towards the acquisition of the property.
2. The petitioner's application for the confirmation of the grant is dated 13<sup>th</sup> January 2012. The deceased left five sons while the objector's husband who was also the deceased's son died before the deceased herein. The petitioner filed a consent whereby all the estate is to be registered in her name. The petitioner filed a supplementary affidavit sworn on 9<sup>th</sup> July 2014 whereby she indicated that she is willing to give her two granddaughters Hope Mbaiza and Lily Mirembe two (2) acres out of plot number Kakamega/SOY/361.
3. By her affidavit of protest sworn on 26/1/2012, the objector, who is the wife of Kenneth Amugune Manani, the deceased's son, maintains that her late husband was allocated plot Number N. Maragoli/Kisatiru/999. She would also wish to benefit from the 47 acres of plot number Kakamega/SOY/361. The objector is also seeking to be given plot number N. Maragoli/Kisatiru/824 as the other sons were given their own plots.



7. The evidence shows that the deceased's estate comprise of:-
- a) LP North Maragoli/Kisatiru/1211
  - b) LP North Maragoli/Kisatiru/1069
  - c) LP North Maragoli/Kisatiru/999
  - d) LP North Maragoli/Kisatiru/862
  - e) LP North Maragoli/Kisatiru/841
  - f) LP North Maragoli/Kisatiru/824
  - g) LP North Maragoli/Kisatiru/1251
  - h) LP Kakamega/SOY/361
  - i) Share Certificate Member No: CK 06771
  - j) Share Certificate Member No: CK 10521
  - k) Share Certificate Member No: 289 Lunyerere Farmers Co. Op Society Ltd.
4. In support of the application for confirmation of the grant filed in court on 18/1/2012, the other beneficiaries have agreed to have the entire estate be transferred to the petitioner who is their mother. This court has already determined that the objector's two daughters shall also benefit from the deceased's estate. Douglas Chore Manani also swore an affidavit on 20/4/2012 indicating that whatever the deceased gave to his children, it was not for free as they paid for it and the objector's husband failed to pay for his share. The objector's husband did not contribute anything towards the deceased's property. However, he was also entitled to inherit his father's estate just like the other sons.
5. Having said that the only issue for determination is the distribution of the estate, I do proceed and distribute the estate as follows:-
- a) LP North Maragoli/kisatiru/1211- Whole To Be Transferred To Ericah Azenga Muguheri.
  - b) LP North Maragoli/kisatiru/1069- Whole To Be Transferred To Ericah Azenga Muguheri.
  - c) LP North Maragoli/kisatiru/999- Whole To Be Transferred To Ericah Azenga Muguheri.
  - d) LP North Maragoli/kisatiru/862- Whole To Be Transferred To Ericah Azenga Muguheri.
  - e) LP North Maragoli/kisatiru/841- Whole To Be Transferred To Ericah Azenga Muguheri.
  - f) LP North Maragoli/kisatiru/824- Mable Musinzi Lumula To Hold In Trust For Hope Mbaiza & Lily Mirembe
  - g) LP North Maragoli/kisatiru/1251- Whole To Be Transferred To Ericah Azenga Muguheri.
  - h)
    - (i) LP Kakamega/soy/361- 5 Acres To Mable Musinzi Lumulu To Hold In Trust For Hope Mbaiza & Lily Mirembe
    - (ii) LP Kakamega/soy/361- Erica Azenga Muguheri- Remainder.
  - i) Share Certificate Member No: Ck 06771- Whole To Be Transferred To Ericah Azenga Muguheri.



- j) Share Certificate Member No: Ck 10521- Whole To Be Transferred To Ericah Azenga Muguheri.
- k) Share Certificate Member No: 289 Lunyerere Farmers Co. opSociety Ltd.- Whole To Be Transferred To Ericah Azenga Muguheri.

6. I do further make the following orders;-

- 1. The petitioner, Erica Azenga Muguheri shall hold the entire estate in trust for the benefit of the other beneficiaries including Lily and Hope who shall form one unit as per the ruling of 9/5/2013.
- 2. The petitioner shall continue paying the school fees for Lily and Hope who shall form one unit as per the ruling of 9/5/2013.
- 3. The two properties given to Lily and Hope, i.e Plot 824 and five acres out of plot 361 SOY shall be for their exclusive possession. The two granddaughters shall no longer benefit from plot number 361/ SOY should the family opt to divide and distribute it.
- 4. The grant shall be confirmed in the above terms and the petitioner shall be the administrator of the deceased's estate.
- 5. Each party to meet his/her own costs.

**DATED, DELIVERED AND SIGNED AT KAKAMEGA THIS 16<sup>TH</sup> DAY OF OCTOBER 2014**

**SAID J. CHITEMBWE**

**JUDGE**

