

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUSIA

PROBATE & ADMINISTRATION CAUSE NO.76 OF 2010

IN THE MATTER OF THE ESTATE OF DIONSIUS ONYANGO OPONDO(DECEASED)

ALEX OCHIENGOBJECTOR

VERSUS

ANDREA CHARLES OKOTHAPPLICANT

R U L I N G

1) The Protest by Alex Ochieng (**Ochieng**) against the proposal on distribution of the Estate of Dionsius Onyango Opondo (**Deceased**) made by Andrea Charles Okoth (**the Administrator**) will turn out to be wholly unwarranted.

2) In a consent for distribution signed by other beneficiaries it is proposed that Ochieng is entitled to 0.72 hectares of Marachi/Bumala/382 (**The Estate land**). Ochieng told Court that prior to his death, the Deceased had already shown and given him, his entitlement in the Estate land. He settled on it and developed it.

3) So as to formalize his share, the Protestor caused the subdivision of the Estate land. The Protestor produced a Mutation Form which, in his view, depicts the manner in which the Deceased settled his children. From the Mutation, Ochieng's portion is sub plot 1839. That sub plot measures 0.70Ha. Evidently it is smaller than what the Administrator proposes to be his portion. It has turned out that the Administrator is proposing to give him more land than what he claims.

4) In circumstances like this, a party who engages in unnecessary litigation needs to meet costs. Costs to the Petition for the Protest proceedings.

F. TUIYOTT

J U D G E

DATED, DELIVERED AND SIGNED AT BUSIA THIS 4TH DAY OF NOVEMBER 2014.

IN THE PRESENCE OF:

KADENYICOURT CLERK

..... APPLICANT

.....FOR OBJECTOR