



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Succession Cause 246 of 2006

IN THE MATTER OF THE ESTATE OF LUCY NJERI NG'ANG'A (DECEASED)

RULING

This cause relates to the estate of Lucy Njeri Ng'ang'a, who died on 19th November 2004. Representation to the estate was obtained by her mother, Teresia Wambui Njau. Her husband, Joseph Ng'ang'a, had predeceased her. They were not survived by any children.

The dispute in this matter resolves around the inheritance of Kiambaa/Ruaka/T. 411. It previously belonged to Joseph Ng'ang'a, and upon his demise it passed by transmission to his widow, Lucy Njeri Nga'ng'a, the deceased herein.

The applicants in the application dated 14th June 2012 are sister-in-law and step mother-in-law, respectively, of the deceased Lucy Njau Ng'ang'a. Then can is that they were entitled to a share in the estate of Lucy Njeri Ng'ang'a as they were the sister and step mother of the husband of the deceased woman. They assert that they had a right equal to that of the Teresia Wambui Njau. They allege that the administrator did not in her petition disclose them and therefore the grant has obtained illegally.

According to Section 66 of the Law of Succession Act, entitlement to a grant of letters is dependent on the provision of Part V of the Law of Seccesiion Act. Priority is given to the surviving spouse followed by the children, followed by the father of the deceased, followed by the mother of the deceased, followed by siblings, and followed by the relatives dependents on their closeness to the deceased based on the degree of consanguinity. in this case, Lucy Njeri Ng'ang'a was not survived served by a spouse or children nor a father. That being the case the next in line was the mother. The relevant provision in part V is **Section 39** which provides:

***"where an intestate has left no surviving spouse or children, the net intestate estate shall devolve upon the kindred of the intestate in the following orders of priority.***

- (a) Father, or if dead;***
- (b) Mother ; or if dead.***

***(c) Brothers and sister and any child or children of deceased brothers and sisters, in equal shares....."***

The applicant were not surviving spouses of the deceased, nor her children nor her parents. They were not her siblings either. Consequently, they did not rank in priority over the administrator nor were they of equal rank to her so far as entitlement not to the administration of the estate was concerned. There was no obligation to disclose them nor to obtain their consents nor to involve them in the petition for grant. **Section 39** is equally clear that they were not entitled to a share in the estate of the deceased.

There is nothing on record to show that the administrator contravened the law governing the process of obtaining grant. There is also no material showing that the applicants ought to have been catered for in the distribution of the estate. In view of **Section 39**, the share that David Mwangi Muchiri got in the estate was purely gratuitous as he was not entitled to it.

I find no merit at all in the application dated 14th June 2012. It is hereby dismissed with costs.

**Dated and delivered on this 10 TH day of May, 2013.**

**W. MUSYOKA**  
**JUDGE**