



**In re Estate of Late Dabaso Dima (Deceased) (Succession Cause  
E029 of 2023) [2023] KEKC 29 (KLR) (16 November 2023) (Judgment)**

Neutral citation: [2023] KEKC 29 (KLR)

**REPUBLIC OF KENYA  
IN THE KADHIS COURT AT MOYALE  
SUCCESSION CAUSE E029 OF 2023  
A GALGALO, PK  
NOVEMBER 16, 2023  
IN THE MATTER OF ESTATE OF LATE DABASO DIMA (DECEASED)**

**BETWEEN**

**LAKI DABASO DIMA ..... PETITIONER**

**AND**

**DENGE DABASO DIMA ..... RESPONDENT**

**JUDGMENT**

1. Dabaso Dima [deceased] herein passed on in the year 1980 and left behind a widow [the petitioner], and three sons, who later two of the sons died. Currently the surviving beneficiaries are the widow [the petitioner], a son [the respondent] and three grandsons. The deceased had a plot at Hellu Location of Moyale at the time of his demise.
2. The petitioner claims that they subdivided the said plot through the elders' intervention among the remaining heirs as inheritance. The plot was subdivided in to two equal portions. She got half of the plot together with the grandsons and the other half taken by the respondent alone. She avers that she was not satisfied with the decision of elders and would seek further justice from the Kadhi's court by returning back the portion of plot given to the respondent, and any other relief as end of justice.
3. The respondent admits demise of the deceased herein in 1980, who left behind the plot and heirs including the petitioner who was the widow married to the deceased father at the time of his demise, and two other sons excluding the respondent. He also admits that the two sons later died but one deceased son left behind two sons.
4. He admits that there happened misunderstanding between his biological mother and him over sharing of the estate of their father [the plot]. Where the elders intervened the dispute by subdividing the plot in to two portions equally. He was given one portion and the other portion to the two sons of Wario



Dabaso his deceased brother. He states, but his mother wanted the whole plot be inherited by the two grandsons.

5. On pretrial conference the issue arise was that the argument of dispute is how the plot was subdivided and not that the elders forcefully subdivided the plot. Where the court moved to the scene location where the plot exists.
6. At the plot, all the concern elders attended. Hearing of the matter done, where all the elders testified against the petitioner even her own witness whom she called to testify in her support.
7. They all testified that they intervened their disputes over how the plot is inherited. They said to have subdivided the plot into two portions, one portion given to petitioner and her two grandsons, and the other to the respondent. they all submitted that it was inherited between both sides' in agreement. But the petitioner did not become satisfied with the manner of subdivision, and not that with the size of the portion but she wanted her grandsons to take the side facing the road, and the respondent takes the backside. But the elders considered fair dealing in a such away that both sides will get a share of the roadside. This is what the court considered to be fair and just in terms of both getting the share of the roadside.
8. Upon considered the evidences above I found that the decision entered by the elders are fair and just, hence the petitioner's prayer is hereby dismissed.
9. Orders accordingly.

**DATED, DELIVERED AND SIGNED AT MOYALE ON 16<sup>TH</sup> NOVEMBER 2023.**

**BY HON GALGALO ADAN – PRINCIPAL KADHI**

**MOYALE KADHI'S COURT.**

