



REPUBLIC OF KENYA

IN THE KADHI'S COURT AT HOMABAY

SUCCESSION CAUSE NO 1 OF 2020

IN THE MATTER OF THE ESTATE OF HASSAN ABDI (DECEASED) AND

IN THE MATTER OF AN APPLICATION BY JAFFER HASSAN ABDI (APPLICANT)

RULING

This succession suit was filed in this court by way of originating summons by one Jaffer Hassan Abdi referred herein after as the applicant on the 13th of January 2020 where he prays for;

1. Distribution of the estate of Hassan Abdi(deceased) as per the consented mode of distribution and
2. Whether all beneficiaries have been captured in the said consented mode of distribution.

In support of the summons were an affidavit sworn by the applicant, a copy of certificate of confirmation of grant issued to the applicant and a consent to the mode of distribution of the estate signed by all the beneficiaries among other documents.

The background of the matter is that the deceased passed away on the 9th of September 2017 leaving behind an estate value estimated at 32,981,520 kshs. The deceased never left a will behind. He was survived by 12 beneficiaries namely;

- 1) Nuria Mohamed – widow
- 2) Jaffer Hassan Abdi –SonDaudi
- 3) Hassan Abdi- Son
- 4) Barwak Hassan Abi- Daughter
- 5) Ahmed Noor Hassan- Son
- 6) Sirat Hassan Abdi –Son
- 7) Farhya Hassan Abdi – Daughter
- 8) Saddam Hassan Abdi – Son
- 9) Arafat Hassan Abdi – Son 10)Yasin Hassan Abdi – Son
- 11) Juweria Hassan Abdi –Daughter
- 12) Abdiqadir Hassan Abdi - Son

The matter came for hearing on the 22nd of January 2020 and the following heirs to the late Hassan Abdi appeared before this court:

- 1) Jaffer Hassan Abdi
- 2) Nuria Mohamed

- 3) Daudi Hassan Abdi
- 4) Barwak Hassan Abdi
- 5) Sirat Hassan Abdi
- 6) Farhya Hassan Abdi

The Applicant testified that all the beneficiaries to the estate of the late Hassan Abdi had agreed and appointed him administrator to the estate and also agreed to leave the estate intact and not to distribute it among themselves.

He states that after he was issued with certificate of confirmation of grant, one of the beneficiaries, Daudi Hassan Abdi (Son) claimed his share against what they had agreed upon before and has been causing unease among the family members since then.

As a result, all the other beneficiaries agreed to distribute the estate in accordance with Islamic Law and they first stated the shares of each individual whereby in this case the widow gets one 1/8 of the total estate (***They(widows) get one-fourth of what you(deceased) leave behind, if you have no children. If you have children, they get one-eighth of what you leave.***) Qur'an 4:12 and the sons and daughters to distribute the remaining after the widow's share by giving each daughter 1/2 of what each son gets (***The male receives the equivalent of the share of two females.***) Qur'an 4:11, and lastly physically giving Daudi Hassan Abdi his portion in monetary value(cash) and leaving the remaining intact without physical splitting it.

The following are the shares which they agreed upon and consented to;

- 1) Each son shall get Kshs. 3,395,156/= being the total amount allocated to the deceased's son.
- 2) Each daughter shall get Kshs. 1,697,578/= being total amount allocated to the deceased's daughter.
- 3) The surviving widow shall get Kshs. 4,122, 690/=.

But, the following are their accurate shares in according to Islamic Law;The surviving widow gets Kshs. 4,122, 690 which is an eighth of 32,981 520 kshs.

- 1) Each Son gets Kshs. 3,037771. which is twice of what each Daughter gets.
- 2) Each Daughter gets Kshs. 1,518,885. which is half of the share of each Son.

After going through all that has been stated and together with the relied documents, I have found that all the beneficiaries to the estate of Hassan Abdi (deceased) have been captured in the consented mode of distribution and I do make the following orders;

1. **THAT** the shares of each beneficiary in regard to Islamic Law is as per what I've stated herein above and not what has been consented to.
2. **THAT** Applicant(administrator) to deposit into the bank account of Daudi Hassan Abdi his shares in monetary value.
3. **THAT** no order to costs.

It is so Ordered.

Dated, Signed and Delivered in Homabay this 5th day of February, 2020.

Hon. Idris N. Nyaboga

Resident Kadhi

In the presence of;

Court Assistant: Francis Tshombe Applicant: Jaffer Hassan Abdi