



**REPUBLIC OF KENYA**

**IN THE KADHI'S COURT AT NYERI**

**SUCCESSION CAUSE NO. 16 OF 2019**

**IN THE MATTER OF THE ESTATE OF ZAINAB JUMEA MAKAME---DECEASED**

**AND**

**RUKIA NJOKI HAMISI.....PETITIONER**

**VERSUS**

**1. MWANAISHA HALIMA**

**2. DAUSI TUNU.....RESPONDENTS**

**JUDGEMENT**

This is a succession matter. The petitioner is Rukia Njoki Hamisi. The respondents are Mwanaisha Halima and Dausi Tunu. The propositus in this matter is Zainab Jumea Makame. The estate in contention are parcels of lands:-

1. Plot No. R 140 Kiawara registered in the name of Zainab Jumea Makame.
2. Plot No. J 5 Majengo, registered in the name of Ali Bin Suleiman.

The parties have no dispute regarding plot no. J5 Majengo. Regarding Plot No.R 140 Kiawara , the petitioner claims that the plot is registered by the respondents name Mwanaisha Halima only.

The respondent, Mwanaisha Halima admitted that the plot is registered by her name and stated that it was registered by her name as a trustee only but is for all heirs.

Both parties are muslims . the deceased are also Muslims. This court has jurisdiction to hear and determine this matter under section 5 of the Kadhis Court Act Cap 11.

The issues for determination in this matter are;-

1. The estate
2. The legal heirs
3. The mode of distribution.

**THE ESTATE**

Both parties admit that the parcels of land;

1. Plot No. R140 Kiawara
2. Plot No. J5 Majengo

Constitutes the estate of the mentioned deceased.

## **THE LEGAL HEIRS**

The original heirs of the deceased as given by both parties are:-

1. Maimuna Ali..... ..daughter .....deceased
2. Fatuma Ali..... daughter.....deceased
3. Khadija Ali.....daughter.....deceased
4. Zainabu Ali.....daughter.....deceased
5. Halima Ali .....daughter.....surviving
6. Rukia Ali daughter.....surviving
7. Muhamed Ali.....son deceased and not survived by a child.
8. Hussein Ali .....son deceased
9. Bakari Ali (Makame Ali) deceased and not survived by a child.

### **The Mode of Distribution of the estate.**

A son is entitled to twice the share of a daughter as per the Holy Quran Chapter 4, verse 11.

It states:-

**“ Allah Commands you as regards your children’s inheritance to the male a portion equal to that of two females.....**

The share of the son in this matter is 2/8 and the share of each daughter is 1/8.

The share of the deceased heirs devolve to their respective heirs/children, the male getting twice the share of the female.

The heir of Maimuna Ali is Saidi Ali Mkuki a son only.

The heirs of Fatuma Ali is Amina Musa , a daughter only.

The heirs of Hadija Ali are;

Rukia Yusuf , Saida Yusuf, Mohamed Yusuf, Saumu Yusuf, Kathum Yusuf.

The heirs of Zainabu Ali are;

Riziki Ali, Saida Ali, Fatuma Ali, Rahima Ali, AbduRahman Ali,Mwanajuma Ali.

The heirs of Hussein Ali are;

Abdalla Hussein, AbuBakar Hussein Ali.

The estate is hereby vested in the heirs herein above mentioned in the shares specified. Devolution of the estate must clearly indicate all the heirs and their respective shares. However, up to five heirs can be registered as proprietors in any given parcel of land of land under Cap 300, laws of land. The persons issued with the land in such a case hold it in trust on their own behalf and that of the other heirs. The identification of trustees depends to a large extent on consent of the legal beneficiaries. For the purpose of the registration, the heirs to consult and file a valid consent.

Orders accordingly.

**Read and Dated this 20<sup>th</sup> day of February 2020 in court’**

**SAID HAMISI BEDZENGA**

**Hon. Principal Kadhi**

Petitioner present in person.

Respondents in person present

Naomi C/A

20/02/20