



REPUBLIC OF KENYA

IN THE KADHI'S COURT AT MALINDI

SUCCESSION COURT NO: 28 OF 2017

IN THE MATTER OF THE ESTATE OF: MOHAMED SWAFI MAULANA – (DECEASED)

KUSWAI SHAFI MOLANA.....PETITIONER

JUDGMENT

The petitioner filed his suit on the 3rd of August, 2017. The petitioner is a full brother to the deceased. The late MOHAMED SWAFI MAULANA died on the 27th June, 2017. He was survived by the following heirs:-

1. MAIMUNA MOHAMED AHMED (MOTHER)
2. LUTFIA SAID ABUDALLA (WIDOW)
3. IDARUS MOHAMED SWAFI (SON)
4. SAID MOHAMED SWAFI (SON)
5. TWAIBA MOHAMED SWAFI (DAUGHTER)
6. TWALHA MOHAMED SWAFI (DAUGHTER)
7. MAYMUNA MOHAMED SWAFI (DAUGHTER)
8. FARIDA MOHAMED SWAFI (DAUGHTER)

This court would like to confirm that the above mentioned are the only beneficiaries to the deceased estate.

The deceased estate is composed of :-

- (a) First community Account No: XXX
- (b) Barclays Bank Account No: XXX
- (c) Gulf African bank Account No: XXX
- (d) Diamond Trust Bank Account No: XXX
- (e) ¼ share of plot No: 1082, Title no: CR. 12383, Malindi, with two flats on the said plot.

That the monies deposited in the three bank accounts are to be released to Malindi Kadhi's Court for the same to be distributed to the legal heirs as stated in the Islamic law.

The deceased had left a ¼ undivided share of plot No: 1082, Title No: CR. 12383, within Malindi Township at Barani.

That the Land Registrar in Mombasa to effect transfer of ¼ undivided share to the 8 beneficiaries: mother, widow, 2 sons and 4 daughters.

That this honourable court has authorized the petitioner, Kuswai Shafi Molana and the widow Lutfia Said Abudalla as the trustees to the

deceased estate.

This court is issuing the following orders concerning the distribution of the deceased's estate:

The Holy Quran states in Suratul Nisai verse 11,

“As regards inheritance, Allah enjoins you concerning your children that

the share of the male shall be twice that of the female.

In case the heirs be more than two females, their total share shall be two thirds of the whole (estate), and if there be only one daughter, her share shall be half of the whole (estate).

If the deceased has children, each of his parents shall get one sixth of the whole (estate), but if he be childless and his parents alone are his heirs, the mother shall have one third of the whole estate. The division of all these shares shall take place only after fulfilling the terms of the will and after the payment of the debt (if any), as regards your parents and your children, you do not know who is more beneficial to you. Allah has apportioned these shares and most surely Allah is all knowing all wise.”

This court is giving the following orders:-

1. **THAT** the legal heirs and share of the above mentioned deceased are as follows:-

- (a) MAIMUNA MOHAMED AHMED (mother) - 1/6 of the estate
- (b) LUTFIA SAID ABUDALLA (widow) - 1/8 of the estate
- (c) IDARUS MOHAMED SWAFI (son) - 2/8 of the residue
- (d) SAID MOHAMED SWAFI (son) - 2/8 of the residue
- (e) TWAIBA MOHAMED SWAFI (daughter) - 1/8 of the residue
- (f) TWALHA MOHAMED SWAFI (daughter) - 1/8 of the residue
- (g) MAYMUNA MOHAMED SWAFI (daughter)- 1/8 of the residue
- (h) FARIDA MOHAMED SWAFI (daughter) - 1/8 of the residue

2. **THAT** the deceased left the following estate:-

- a. First Community bank A/C XXX
- b. Barclays Bank A/C No. XXX
- c. Gulf African Bank A/C No: XXX
- d. Diamond Trust Bank A/C No: XXX
- e. ¼ undivided share of plot No. 1082 Title No. CR.12383 Malindi with two flats on the said plot.

3. **THAT** the monies from the deceased accounts be distributed to the legal heirs according to the above mode of distribution.

4. The above ¼ undivided share of plot No. 1082 Title no.CR. 12383 Malindi with two flats on the said plot be vested upon the legal heirs in the prescribed mode.

5. **THAT** the Land Registrar Mombasa, to effect transfer of the ¼ undivided share of plot No. 1082 title No. 12383 Malindi with two flats on the said plot and issue a new Title for the same under the following names:

- (i) KUSWAI SHAFI MOLANA ...ID NO: XXX, the trustee of the deceased surviving heirs.
- (ii) LUTFIA SAID ABUDALLA ID NO: XXX being the heir and the trustee of the above named deceased surviving heirs.
- (iii) IDARUS MOHAMED SWAFI ID NO: XXX (eldest son to the deceased.)

6. **THAT** the petitioner KUSWAI SHAFI MOLANA and the widow of the deceased LUTFIA SAID ABUDALLA are the appointed trustees of the estate of the deceased MOHAMED SWAFI MAULANA.

Given under my hand and seal of this honourable court, this 16th day of August, 2017.

SHEIKH SALIM S. MOHAMED

HON. PRINCIPAL KADHI – MALINDI