



REPUBLIC OF KENYA

IN THE KADHIS COURT AT NYERI

SUCCESSION CAUSE NO. 05/2017

IN THE MATTER OF THE ESTATE OF FATUMA RAMADHANI (DECEASED)

YUSUF NDEGWA DAUDI.....PETITIONER.

VERSUS

SIYAD AHMED HASSANA.....RESPONDENT

JUDGMENT

The matter before this court was filed on 28th day of June 2017. The petitioner prays for judgment against the respondent for,

· Distribution of the deceased assets to the rightful heirs as per Islamic law and practice.

The respondent filed his defense on the 7th day of July 2017 and stated clearly in paragraph one that he does not know anything about the said plot despite that it was registered in his name.

Notice of appointment was also filed on 8th September 2017

The learned counsel for the respondent **Mr. Ombongi** submitted that his client is the rightful owner of the plot.

On the other hand the petitioner maintained that the respondent is not the only beneficiary of the said plot.

The constitution of Kenya 2010 Article 162(2) (b) which must be read together with Environment and land Court Act Cap 12A sec 13(2) establishes that,

(2) Parliament shall establish courts with the status of the high court to hear and determine disputes relating to-

(b) The environment and the use and occupation of and TITLE to land.

The Environment and land court Act Cap 12A sec 13(2) (a) states that,

In exercise of its jurisdiction under article 162(2) (b) of the constitution the court shall have power to hear and determine disputes,

(a) Relating to environmental planning and protection, climate issues, land use planning, TITLE, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources;

This matter is purely on **ownership**. The major issue to the petitioner is how the respondent acquired the **title deed** number **NYERI MUNICIPALITY/BLOCK2 (MAJENGO)/534** Approximate Area 0.0459Ha. How did Siyad got the ownership of the plot while he himself doesn't know the same.

I hereby advice the parties to take the matter to the right forum. Let the right court determine the **ownership** then the parties can come for distribution.

I can only do the distribution after declaration of the ownership.

I too return back the title deed number **NYERI MUNICIPALITY/BLOCK2 (MAJENGO)/534** Approximate Area 0.0459Ha to the respondent.

I give no orders as to cost. R.A 30 days.

Dated and delivered at Nyeri this 19th day of December, 2017

MOHAMED ABDALLA

KADHI NYERI

In presence of the petitioner.

In presence of the respondent.