



REPUBLIC OF KENYA

IN THE KADHIS COURT AT KISUMU

SUCCESSION CAUSE NO 2 OF 2014

IN THE MATTER OF THE ESTATE OF ABDURAHIM SAID (DECEASED)

ABUL BARRY ABDUL RAHIM.....APPLICANT

RULING

This is a review of the earlier Judgment delivered on 18th day of MAY 2015.

ABUL BARRY ABDUL RAHIM of identity card number [...] referred herein as a petitioner filed a petition on 9th day of FEB 2015

The petitioner claimed that : the deceased was his father left behind children namely:

- | | |
|----------------------------------|---------------------|
| 1- NURU CHEPKEMBOI | (WIDOW) |
| 2- ABDUL BARY ABDULRAHIM | (SON) |
| 3-MOHAMED ABDULRAHIM | (SONDECEASED) |
| 4-SAID GEDU ABDULRAHIM | (SONDECEASED) |
| 5-ABDULRAHMAN KEPRUTO ABDULRAHIM | (SON) |
| 6-MARIYAM CHEPKOMBOI ABDULRAHIM | (DAUGHTER) |
| 7- RAHMA ABDULRAHIM | (DAUGHTER) |
| 8- ZENA CEPBET ABDULRAHIM | (DAUGHTER) |
| 9- RAMLA CHEPCHIRCHIR | (DAUGHTER DECEASED) |

He prayed for:

a- That the buyers to get their portions and the remaining land to be distributed to them in accordance with Islamic law.

The petitioner sought that he would like the buyers to get their portions and the remind land to distributed to them accordance with Islamic law

Abdul Swamad and his siblings should also get their portion as they sold to their father late Ustadh HassanNoor.

The petitioner asked for summons to be issued to his siblings and his mother He produced list of buyers and the following are buyers:

- | | |
|-------------------|------------|
| 1- Daniel Sigilai | 1.25 acres |
|-------------------|------------|

2- Robrt Ondusu	0.25 acres
3- Maratha Adema	0.10 acres
4- Lucy Mugambe	0.10 acres
5- Pamela Ingefu	0.20 acres
6- Hassan Noor	1.40 acres
7- Enos Mbono	0.10 acres
8- Evan Idia	0.10 acres
9- Josephine Moraa	0.20 acres
10- Oliver Magam Beru	0.20 acres

to support the issue the petitioner availed two witness namely Abubakar Sadalla and Mohamed they testified confirming the petitioner's claim in respect of the Nandi kamobo plot no 174 claims that Munira and Mama baby sold 1acre to Hassan Noor they were paid 400000/= they sold mother's share also the late Hassan Noor bought 1point from Shakila .The sons Abdilbary and abdurahman sold 3 points to him.

I have noted the issue clearly and I found that The matter was not contested as buyers said

upon hearing the petitioner herein and the witnesses availed by him and upon read for the documents the matters to be determine are:

a- Is it possible for buyers to get their portion?

b- The remaining land to be distributed to them in accordance with Islamic law as petitioner's prayers.

it is clear to this court that all buyers bought their portion legally and there is no dispute.

The total size of the estate no 174 was 6.643 acres .The total land occupied by purchasers is 3.90 acres. And the proposed road are estimated to take 0.28 acres .This leave the family with a total of 2.463 acres.The family land comprises three (3) portion as follow:

- a) Plain land south of the road(11 a) 1.26 acres.
- b) Plain land north of the road(11b) 0.802 acres.
- c) Area under tea cultivation 0.40 acres.

Mariyam sold 0.2 points to Pamela Ingefu.

Abdul bary sold the following :

- 2.5 points to sara
- 1.5 points to Noor Hasan
- 1.0 point to martha
- 1.0 point to Lucy
- 1.0 point to Nicholas (Enos mbone)
- 7.0 points in total.

Abdul rahman sold the fillowing :

- 1.5 points to Noor Hasan only.

Mohamed sold the following:

- 2.5 points to Sigilai.

2.5 points to Onduso.

2.5 points to servai.

1.0 point to Shakila.

8.5 points in total.

Each son is entitled to 0.7634 each daughter entitled 0.3817 the widow Nuru Chekemboi entitled to 0.5453.

that is according to Islamic law.

it is evident to this court that Abdubary sold a total of 0.7 points (acre) therefore He has abalance of 0.0634

Mohammad is entitled to 0.7634 and he sold a total of 0.85 therfore exceeding his share by 0.0866. on this bases has no right in this estate.

Abdulrahman is entitled to 0.7634 and he sold 0.15 potnts therefore his share remains 0.6134.

Maryam is entitled to 0.3817and she sold 0.2 potnts therefore his share remains 0.1817.

Zena is entitled to 0.3817.

Rahma is entitled to 0.3817.

Ramla is entitled to 0.3817.

It is hereby order that:

the applicant and NUUR Chekpoi shall be administrator to ensure that every beneficiary and buyers get their shares .

I read and delivered this 22th day of FEBRUARY 2016 in the presence of Mursal M Sizi ----- Kadhi 11

court asistant----- Rahma Akidah

Petitioner