



In re estate of Mahmood Abdulla Mahmood (Deceased) (Succession Cause 83 of 2016) [2016] KEKC 32 (KLR) (18 August 2016) (Judgment)

In re estate of Mahmood Abdulla Mahmood [2016] eKLR

Neutral citation: [2016] KEKC 32 (KLR)

**REPUBLIC OF KENYA
IN THE KADHIS COURT AT MOMBASA**

SUCCESSION CAUSE 83 OF 2016

AH ATHMAN, PK

AUGUST 18, 2016

IN THE MATTER OF THE ESTATE OF MAHMOOD ABDULLA MAHMOOD DECEASED

IN THE MATTER OF

NAFISA ABDULLA MAHMOOD PETITIONER

JUDGMENT

1. In this succession matter, the petitioner prays for a declaration that the three beneficiaries are the only heirs of the deceased herein.
2. The petitioner was represented by the firm of A.O.Hamza Co. advocates.
3. The petitioner claimed the late Mahmood Abdullah Mahmood left four properties in Mombasa registered in his name but belonging to his sister Fatima. She claims he was not survived by any child. The matter is not contested.
4. The late Mahmood Abdulla Mahmood died at Mombasa Hospital on August 7, 2008 of diabetes.

Issues

The issues for determination in this matter are:

1. What constitutes the estate
2. Whether or not the properties can be transferred to Fatima Abdulla Mahmood.

Estate

5. Upon reading the petition and examination of the documents for the properties, the following properties are leasehold certificates and titled deed registered in the names of Mahmood Abdulla Mahmood:



1. Flat No B5 2nd Floor on Plot No MSA/ Block xx/ xx, xx,& xx
2. Flat No B6 2nd Floor on Plot No MSA/ Block xx/ xx, xx,& xx
3. Mombasa / Block xxx/xx

Heirs

6. The late Mahmood Abdulla Mahmood was not survived by any children. He was survived by his two sisters Fatima and Nafisa Abdulla Mahmood. They would be entitled to the entire estate. However the petitioner states the properties were only registered in the name of the deceased brother but actually belonged to their sister Fatima Abdulla Mahmood probably because she lives out of the country. Nafisa has an interest in half of the properties if it were available for distribution. She has no objection for the properties to be issued to her sister Fatima. Accordingly the properties are not available for distribution.
7. Fatima Abdulla is entitled to the entire estate in this matter. The properties be and are hereby vested in Fatima Abdulla Mahmood absolutely. Registrar of title to effect transmission accordingly.

The estate vests in the heirs in their respective shares.

The District lands Registrar to transmit estate to heirs accordingly.

Orders accordingly

DATED AND DELIVERED AT MOMBASA ON 18TH AUGUST 2016

ABDULHALIM H. ATHMAN

PRINCIPAL KADHI

In the presence of:

Mr. Yusuf K. Abdulrahman, Court assistant

Mr. A.O. Hamza for Petitioner.

