



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Masud Said Shambi (Deceased) (Succession Cause
242 of 2014) [2015] KEKC 49 (KLR) (26 March 2015) (Judgment)**

In re the Estate of Masud Said Shambi (Deceased) [2015] eKLR

Neutral citation: [2015] KEKC 49 (KLR)

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

SUCCESSION CAUSE 242 OF 2014

AH ATHMAN, SPK

MARCH 26, 2015

IN THE MATTER OF

SAID SHAMBI PETITIONER

JUDGMENT

1. This is an uncontested succession matter. The petitioner claims the late Masud Said Shambi had no children and was survived by his mother and siblings, that he left a house on Plot No 7055/II/ MN, parcels of land Plot Nos Kwale / Kinondo Chae / 131, 4553/16 Mtopanga and a bank account with Barclays Bank of Kenya ltd.
2. He prays for orders that :
 1. Determination of heirs
 2. Determination of estate
 3. Distribution of estate to heirs
 4. Any other relief the court deems just to grant.
3. The late Masudi Said Shambi died on March 1, 2013 in Germany and was buried in Mwabungo, Kwale county - Kenya.
4. The issues for determination in this matter are:
 1. The estate
 2. Heirs and their respective shares
 3. Distribution



Estate

5. I have perused the ownership documents of the estate property. Only the title for the parcel of land Kwale/ Kinondo Chale/ 131 was produced. It is registered in the names of Irmgard Helga Rickel and Masud Said Shambi. The half share of the late Masud Said Shambi in this property is part of his estate.
6. The petitioner contends the deceased had a Barclays bank of Kenya ltd Nkrumah rd branch account, they used to go together to make withdrawals. If available it would form part of his estate. The Bank should disclose to court whether or not the deceased had an account with him
7. I cannot find the other properties as part of the estate for lack of proof.

Heirs

8. The mother is entitled to one sixth [1/6] of the estate due to presence of more than sibling under Qur'an 4:11

"And for one's parents to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [and / or sisters], for his mother is a sixth, after any bequest he [may have] made or debt"
9. The uterine sibling share one third of the estate equally under Qur'an 4: 12

"And if a man or woman leaves neither ascendants nor descendants but has a brother or a sister, then for each one of them is a sixth . But if they are more than two, they share a third, after any bequest which was made or debt"
10. Muslim Jurists agree this verse refers to uterine siblings while verse 176 in the same chapter refers to full siblings.
11. After issuance of the Qur'anic shares 3/6 remains, due to lack of any other heir, same is redistributed to them in the same ratio under the radd principle.
12. The legal heirs and their respective shares are:
 1. Mishi Rashid Nkuchengwa mother 3/9
 2. Mwanasha Ali Mwamajeni uterine sister 2/9
 3. Bakari Rashid Mbaloh uterine brother 2/9
 4. Rashid Bakari Shambi uterine brother 2/9
13. The estate is hereby vested in the heirs absolutely.
14. Land Registrar to effect transmission of estate to heirs accordingly.

Orders accordingly.

DATED AND DELIVERED AT MOMBASA ON 26TH MARCH 2015.

ABDULHALIM H. ATHMAN

PRINCIPAL KADHI

In the presence of:



Mr. Yusuf K. Abdulrahman, Court assistant

Mr. Oddiaga for the Petitioner.

