



In Estate of Hasanali Alibhai Lalji Noorani (Deceased) (Succession Cause 1793 of 2000) [2024] KEHC 6064 (KLR) (Family) (27 May 2024) (Judgment)

Neutral citation: [2024] KEHC 6064 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 1793 OF 2000
MA ODERO, J
MAY 27, 2024
ESTATE OF HASANALI ALIBHAI LALJI NOORANI (DECEASED)**

JUDGMENT

1. Before court for determination is the Affidavit of protest (Replying Affidavit) dated 28th September, 2000 filed by the protestor Shahira Lalani Alibhai.
2. The matter was canvassed by written submissions. The protestor filed the written submissions dated 17th May, 2023, whilst the 1st Administrator Yasmin Alibhai Pennig relied upon her written submissions dated 27th July, 2023 as well as the supplementary submissions dated 27th July, 2023.

Background

3. The succession cause relates to the estate of the late Hassanali Alibhai Lalji Noorani (hereinafter ‘the Deceased’) who died on 28th February, 2000. A copy of the Death Certificate Serial No. 540688 appears as Annexure ‘ZA1’ to the Petition for Grant of Probate dated 24th August, 2000.
4. The Deceased died testate leaving behind a written will dated 30th July 1996 in which he appointed his son Zulfikar Albhai to be the sole Executor and Trustee of the estate. The written will detailed the manner in which the Deceased desired his estate to be distributed.
5. Following the demise of the Deceased the named Executor Zulfikar Alibhai sought and obtained a Grant of probate which was issued to him on 2nd November, 2000.
6. However before said Grant was confirmed the Executor unfortunately passed away on 13th October, 2012. His wife Shahira Galant Alibhai (the Protestor herein) obtained Grant of representation to his estate in Succession Cause No. 2660 of 2013.
7. Thereafter vide a ruling delivered on 13th October, 2016 the protestor and the sister of the Executor Yasmin Alibhai Dennig were together with the Public Trustee appointed as joints administrators of the estate of the Deceased.



8. The 2nd Administrator Yasmin Albhai Dennig then filed a Summons for confirmation of Grant dated 2nd December, 2019. The 1st Administrator (the Protestor) filed the Replying Affidavit [protest] dated 28th September, 2020 in which she objected to the mode of distribution of the estate as proposed in the Summons for confirmation of Grant.
9. The protestor in her Affidavit avers that in a Ruling delivered on 13th October, 2016 Hon. Lady Justice Muigai identified the properties/assets that comprise the estate of the Deceased as follows;-
 - i. Half share of Apartment No. B3 on Mambaka Road
 - ii. Half share stock in the joint names of Hassanali Alibhai Lalji and Sulfukar Alibhai.
 - iii. Half Share of any other assets later discovered to be part of the estate.
10. The protestor contends that the mode of distribution proposed by her Co-Administrator does not comply with this ruling of 13th October, 2016, as the 2nd Administrator has included in the Summons the following assets which the protestor asserts, do not form part of the estate of the Deceased;-
 - “(a) Monies in financial institutions in Nairobi, Accounts at KCB, EA Building Society, Diamond Trust.
 - (b) Rental income from Apartment No. B3 Mamlaka Road Property from 2003.
 - (c) Monies in United Kingdom Bank Accounts in Lombard Bank and Lloyds Bank.
 - (d) Proceeds from sale of Sham Sham Tea Room Cafe.
 - (e) Dividends received since 2000.”
11. The Protestor submits that by including the above assets, the 2nd Administrator is attempting to re-litigate upon matters which have already been determined by this court. That the court should only involve itself in the distribution of assets already ascertained to form part of the estate of the Deceased.
12. The 2nd Administrator opposed this protest.

Analysis and Determination

13. I have considered the protest filed by the 1st Administrator as well as the submissions filed by both parties.
14. I have also carefully perused the ruling delivered by Hon. Lady Justice Muigai on 13th October, 2016, as well as the summons for confirmation of Grant dated 2nd December, 2019 filed by the 2nd Administrator. In the Supporting Affidavit the 2nd Administrator has only listed the following properties for distribution.
 - (i) Half Share of Apartment No B3 Mamlaka Road.
 - (ii) Half Shares stocks in the joint names of Hassanali Alibhai Lalji and Zulfikar Alibhai.
15. At paragraph 7 of the Supporting Affidavit it was indicated that the estate was to be distributed in accordance with the wishes of the Deceased. (i.e in accordance with the written will)
16. The items listed in paragraph (8) of the Affidavit dated 28th September, 2020 have not been included as assets belonging to the estate of the Deceased. Accordingly I find that no new assets have been included for distribution as alleged by the Protestor.



17. In the premises I find no merit in this protest. The same is dismissed in its entirety. The estate of the Deceased shall be distributed in accordance with the written will dated 30th July, 1996.
18. This being a family matter each side will meet their own costs.

DATED IN NYERI THIS 27TH DAY OF MAY, 2024.

.....

MAUREEN A. ODERO
JUDGE

