



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL & HUMAN RIGHTS DIVISION

PETITION NO. 336 OF 2020

IN THE MATTER OF THE ESTATE OF LAWRENCE NGINYO KARIUKI – (DECEASED)

JAMES ANTHONY KARIUKI.....APPLICANT

VERSUS

ALEX NDORIA KARURI1ST RESPONDENT

AUSTINE WACHIRA KARUNGO.....2ND RESPONDENT

WINFRED KARIUKI.....3RD RESPONDENT

BRENDA NYAMBURA KIRAGU.....4TH RESPONDENT

JANE ALICE WAMBUI KIRAGU.....5TH RESPONDENT

SILAS MACHARIA NGINYO..... 6TH RESPONDENT

MARGARET WANGARI NGINYO.....7TH RESPONDENT

SARAH MUKUHI NGINYO KARIUKI.....8TH RESPONDENT

ROSE WANJIRU KARIUKI.....9TH RESPONDENT

SCHOLASTICA NJERI KARIUKI.....10TH RESPONDENT

COURT DIRECTIONS

I have perused the file herein. Justice Muchelule and Lady Justice Mutuku delivered rulings dated 20th December, 2021 and 27th July 2021 respectively. The two rulings have well set out what is pending before this court. I take note of the direction by Lady Justice Mutuku on 12th July, 2021 that the two petitions for letters of administration *pendette lite* be heard on priority basis. In her Ruling of 27th July 2021 she issued the following orders:

(1) and (2) spent.

(3) That the respondents, their agents, servants and or employees are hereby restrained from intermeddling and or interfering with the Deceased's estate including his bank accounts domiciled at Consolidated Bank of Kenya and I&M Bank Limited until Grant of probate or letters of Administration in respect of the Deceased's estate is issued and confirmed by this court.

(4) That the respondents are hereby ordered to account for all funds and or proceeds they have collected and or received from the Deceased's estate since his demise on 24th February, 2020 and how they were utilized, spent and or preserved.

(5) That this Honourable court hereby orders that a forensic audit of the Deceased's estate since his demise to be conducted by an audit firm to be agreed upon by all the beneficiaries herein failing which the court to appoint one.

(6) That the failure to account as ordered in order No.v above, the respondent shall refund to the estate all and any of the proceeds they have withdrawn from the Deceased's accounts and or misappropriated from the entire estate.

By these orders parties have been clearly warned on what they should do or not do. At the centre of this dispute is the contested Will by the deceased. With the numerous applications, petitions and counter applications which some parties want heard first it will take a long time before the main issue here is determined. The fear of intermeddling has been taken care of by the orders issued herein on 27th July, 2021. It is either the Will is valid and Executors be appointed OR the Will is invalid and Administrators appointed.

(i) It is therefore my considered opinion that the issue of the validity of the Will be heard immediately. I direct that the matter proceeds with the hearing of the two objections dated 4th September, 2020 (Brenda Nyambura Kiragu 4th respondent) and 21st September, 2020 (Winfred Wanjiru Kariuki – 3rd respondent and her children 1st and 2nd respondents).

(ii) The outcome will determine how any other petition/application will be dealt with.

(iii) The orders issued on 27th July, 2021 remain in force.

(iv) Any party dissatisfied with the direction is granted leave to appeal.

(v) Besides that, this court will proceed to hear from counsel on how they wish to proceed with the two objections mentioned above.

DELIVERED VIRTUALLY, SIGNED AND DATED THIS 4TH DAY OF APRIL, 2022 IN OPEN COURT AT MILIMANI, NAIROBI.

H. I. ONG'UDI

JUDGE OF THE HIGH COURT