



REPUBLIC OF KENYA

IN THE HIGH COURT AT KERUGOYA

MISC. SUCC. CAUSE NO. 43 OF 2013

IN THE MATTER OF ESTATE OF KARURI GICHANGI (DECEASED)

NICASIUS GITARI NGARI.....APPLICANT

VERSUS

STEPHEN GICHANGI MUNENE.....1ST RESPONDENT

MARY WANJIKU NJIRU.....2ND RESPONDENT

ANNE WANGITHI MURANGO.....3RD RESPONDENT

ROSALINE WAWIRA MUNENE.....4TH RESPONDENT

JANE WANJIKU MUNENE.....5TH RESPONDENT

RULING

1. By a decree of the court dated the 24.9.2018, the applicant Nicasius Gitari Ngari was awarded Kshs. 138,375/= with interest and costs against the Respondents. The Respondents did not pay the said money to the applicant.

A Notice to Show was issued to the respondents as to why they should not be committed to civil jail for failure to pay the decretal sum.

They eventually deposited the money in court on the 22.7.2019 vide deposit receipt No. B 594473, through their Advocates A.N. Chomba & Company Advocates.

2. By a summons application dated 20.1.2020, the applicant seeks an order for the release of the said sum of Kshs. 138,275/= to himself. An affidavit in support sworn on the 20.01.2020 was filed on even date.

3. In response to the application, the Respondents filed a replying affidavit on the 1.10.2020. At paragraph 3, they state that they do not oppose the application but only on the matter of interest and costs.

The money having been deposited in court has not been accruing any interest since the 24.9.2018.

The applicant prays that interest and costs as awarded by the court be determined at a later date.

There being no objection to the release of the deposit to the applicant, I find it fair and in the interest of justice that the said sum of Kshs. 138,375/= to be released to the applicant.

4. Accordingly, the Deputy Registrar is directed and ordered to forthwith release the said sum of Shs.135,375/= to the Applicant NICASIUS GITARI NGARI.

The applicant is at liberty to pursue payment of costs and interest, by the available legal avenues as provided under the Civil Procedure Rules.

5. The application dated 20.1.2020 is therefore allowed. I make no orders as to costs.

Delivered, dated and signed at Kerugoya this 23rd Day of February, 2021.

J.N. MULWA

JUDGE