

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

SUCCESSION CAUSE NO. 1491 OF 2017

HARJINDER KAUR DHANJIL.....APPLICANT

VERSUS

SUKHDEV KAUR..... 1ST RESPONDENT

MANJIT KAUR CHANA.....2ND RESPONDENT

RULING

1. The application dated 23rd November 2020 by Harjinder Kaur Dhanjil against her sisters Sukhdev Kaur and Manjit Kaur Chana seeks the review of the orders of Justice J.N. Onyiego made on 28th September 2020 in this matter. The orders of 28th September 2020 substantially dismissed the application dated 23rd January 2020 by the same applicant against the same respondents. The application had been brought to review, vary and/or set aside the orders contained in the ruling delivered on 17th December 2019 by the same court. In the ruling, the court had nominated the Public Trustee to petition for the grant of letters of administration intestate in place of the applicant and the respondents who, together with the other family members, had been disputing over who should petition for the grant.

2. The estate in question relates to Gurdial Kaur Sihra who died intestate on 21st October 2017 while domiciled in Kenya. The parties herein are some of her children. She left a substantive estate. The children could not agree on who should petition for the grant. Even when the court on 25th September 2018 asked the applicant and the respondents to jointly petition for the grant, they could not agree and therefore failed to file the petition.

3. The application dated 23rd January 2020 and the instant application were under **Order 45 rule 1** of the **Civil Procedure Rules**.

4. There is no dispute that the preliminary objection dated 4th February 2021 filed by the respondents in answer to the application is merited. Under **Order 45 rule 6** of the **Civil Procedure Rules**:-

“No application to review an order made on an application for a review of a decree or order passed or made on a review shall be entertained.”

It is clear that whatever the merits of the instant application, the **rule** has stopped the court from entertaining it.

5. The result is that the application is incompetent and is struck out with costs.

DATED AND DELIVERED NAIROBI THIS 25TH DAY OF MARCH 2021.

A.O. MUCHELULE

JUDGE