



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**SUCCESSION CAUSE NO. 1633 OF 2009**

**IN THE MATTER OF THE ESTATE OF EUTYCHUS WANYOIKE NJAU (DECEASED)**

**ELISHEBA NYAMBURA WANGANGA.....1<sup>ST</sup> APPLICANT**

**JAMES KIARIE NYOIKE.....2<sup>ND</sup> APPLICANT**

**ANTHONY NYOIKE MBUTE.....3<sup>RD</sup> APPLICANT**

**EUTYCHUS NYOIKE MBURU.....4<sup>TH</sup> APPLICANT**

**-VERSUS-**

**KENNETH KIMANI NYOIKE.....RESPONDENT**

**RULING**

1. In the ruling dated 19<sup>th</sup> May 2016 and delivered on 24<sup>th</sup> May 2016, the court appointed Geoffrey Ng'ang'a Nyoike, James Kiarie Nyoike, Kenneth Kimani Nyoike and Eutyclus Nyoike Mburu to be the joint administrators of the estate of the deceased Eutyclus Wanyoike Njau. The four were directed to jointly open an account into which the proceeds and/or rent from parcel LR No. 1144/692 would be going.

2. The complaint by Elisheba Nyambura Wanganga (1<sup>st</sup> applicant), James Kiarie Nyoike (2<sup>nd</sup> applicant), Anthony Nyoike Mbutu (3<sup>rd</sup> applicant) and Eutyclus Nyoike Mburu (4<sup>th</sup> applicant) in the application dated 24<sup>th</sup> June 2020 was that so far the joint account has not been opened, and consequently the proceeds and/or rent from LR No. 1144/692 were being wasted. They stated that the respondent Kenneth Kimani Nyoike has been uncooperative. In response, the respondent did not dispute the fact that the account has not been opened. His explanation was that LR No. 1144/692 did not form part of the estate of the deceased, but that it belonged to the estate of Humphrey Njau Nyoike. This was the same position by the respondent during the hearing of the application filed by the applicants on 29<sup>th</sup> June 2015 which led to the ruling above. In the ruling the court indicated clearly that the question whether or not that parcel of land belonged to the estate of the deceased would be determined at a later stage. The position has not changed. It is clear that the respondent was aggrieved by the orders in the ruling and will not obey them.

3. That being the case, I review the orders in the ruling dated 19<sup>th</sup> May 2016 and delivered on 24<sup>th</sup> May 2016 to the extent that the joint bank account into which the rent and other proceeds of LR No. 1144/692 shall go will be opened by Geoffrey Nganga Nyoike, James Kiarie Nyoike and Eutyclus Nyoike Mburu. They will in the fullness of time account for the money to court and to the beneficiaries.

4. Costs of the application shall be borne by the respondent.

**DATED AND DELIVERED AT NAIROBI THIS 23<sup>RD</sup> DAY OF NOVEMBER 2021.**

**A.O. MUCHELULE**

**JUDGE**