



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**SUCCESSION CAUSE NO. 6 OF 2017**

**IN THE MATTER OF THE ESTATE OF DINAH LIMO (DECEASED)**

**JONAH LIMO.....APPLICANT**

**-VERSUS-**

**AUGUSTINE ROTICH sued as the Area Chief,Ngata Location.....RESPONDENT**

**RULING**

1. The applicant filed the chamber summons application filed on 30<sup>th</sup> June 2021 seeking the following orders:

**a. Spent .**

**b. That this honorable court do order AUGUSTINE ROTICH the area Chief Ngata Location to issue the applicant JONAH LIMO with a chief's letter in respect of the estate of the late DINAH LIMO.**

**c. The costs if this application is provided for.**

2. The application is premised on the grounds that, the estate of the deceased who died on 4<sup>th</sup> April 2009 is being wasted while area chief has declined to issue the applicant with a chief's letter to enable the court allow the applicant to apply for letters of administration of the estate of the sister-in-law **Dina Limo** as allowed in Citation Cause No. 6 of 2017. That the family agreed on the mode of distribution of the estate of the deceased in meeting held on 20<sup>th</sup> April 2019.

3. In response, the respondent filed a replying affidavit on 27<sup>th</sup> September 2021. He averred that he has already issued a letter dated 19<sup>th</sup> August 2019 to **Emmanuel Argut Limo** who is a beneficiary of the estate of the deceased and he cannot therefore issue a second letter in respect to the same estate. He further contends the applicant is not a beneficiary of the estate of the deceased and the application is therefore vexatious and frivolous and a waste of judicial time. He urged court to dismiss the application herein.

**ANALYSIS AND DETERMINATION**

4. I have considered averments herein. Record show that the chief/respondent issued a letter dated 19<sup>th</sup> August 2019 to **Emmanuel Argut**, one of the beneficiaries of the estate of the deceased. In paragraph 4 of the chief's/respondent's letter, he averred that in the said letter, he listed the beneficiaries of the deceased. He further averred that he issued the said letter to the said **Emmanuel Argut Limo** whom he knows as a beneficiary to the deceased and also upon perusing the minutes of a family meeting held on 20<sup>th</sup> April 2019. He attached a copy of the said letter to his affidavit.

5. No explanation has been given as to why another letter should be issued by the chief to the applicant. A chief's letter is crucial as it assists the court to identify the beneficiaries of the deceased. The applicant has not explained why the letter already issued to the deceased's beneficiary cannot be used to apply for letters of administration.

6. I note from the minutes of 20<sup>th</sup> April 2019 that the deceased's family member agreed that the applicant is entitled to 10 acres from the deceased's land and is therefore a beneficiary.

7. In my view since the chief has already issued a letter which he has attached herein, a copy should be given to the applicant which he can use to file succession having been allowed to take out letters of administration on 27<sup>th</sup> July 2017.

8. The applicant wishes to apply for letters of administration in secrecy and without informing other beneficiaries of the deceased. The applicant has not informed any beneficiary entitled to the estate of the current application. No consent has been filed by the beneficiaries authorizing the applicant to file for letters of administration on their behalf.

**9. FINAL ORDERS**

- 1) *The three family members of the deceased appointed in the meeting held on 20<sup>th</sup> April 2021 do file petition for grant of letters of administration.*
- 2) *Order 1 above to be complied within 30 days from the date of this ruling.*
- 3) *Failure to comply with order 2 above the applicant is at liberty to take out letters of administration.*
- 4) *Copy of letter dated 19<sup>th</sup> August 2019 to be used by the applicant for purposes of filing succession in the event the proposed administrators failed to comply with order 2 above.*
- 5) *No orders as to costs.*

**RULING** dated, signed and delivered via zoom at **Nakuru** This **16<sup>th</sup> day** of **December**, 2021

.....

**RACHEL NGETICH**

**JUDGE**

**In the presence of:**

Jenifer - Court Assistant

Kerubo for Applicant

Ms. Ngira for respondent