REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA

SUCCESSION CAUSE NO. 163 OF 2015

IN THE MATTER OF ANDREA BULUMA WANGAKI (DECEASED)

JUDGMENT

1. The deceased herein, Andrea Buluma Wangaki, died on 15th May 1987, according to the certificate of death on record, serial number 0212201, dated 25th March 2015. According to the letter from the Chief of Kongoni Location, dated 24th March 2015, the deceased herein, was brothers wit, the name of their father is not disclosed, the late Stephen Okova Wangaki, the Joseph Wekesa Obudo and the late Wilson Wangaki Okova. The children of the deceased herein were listed as Daina Misenya Buluma, Godfrey Kagia Okova, Irene Makanda, Janet Kamande, Edwin Talameti Buluma, Joy Machio, Stella Namukhungu Buluma, Judith Ekaka Buluma, Violet Owanga Buluma, Paul Buluma Wamaya, Peter Wangaki, Maria Buluma, Jackson Wangaki, Max Simwenyi and Mary Buluma.

2. The children of his brothers the late Stephen Okova Wangaki, Joseph Wekesa Obudo and Wilson Wangaki Okova are also listed against the names of their respective fathers. The children of the late Stephen Okova Wangaki are said to be Rosemary Okova, Alice Alukwe, Jeremiah Wangaki Obudo Okova, Morris Okova Stephen, Joy Inganga and Peter B, Okova. The children of the late Joseph Wekesa Obudo are listed as Belinda Awuor Obudo, Salome Wangaki and Hellen Omoka. The children of the late Wilson Wangaki Okova are Florence Okova, Peter Okova, Edward Okova, Japheth Musoma Okova, Cyman Okova and Violet Okova.

3. Representation to the estate of the deceased was sought by Jeremiah Wangaki Obudo Okova, through a petition that he filed herein on 13th April 2015, in his purported capacity as son of the deceased. I shall, hereafter, refer to the said Jeremiah Wangaki Obudo Okova as the petitioner. he listed the following as the children of the deceased, that is to say: Rosemary Okova, Alice Alukwe, Jeremiah Wangaki Obudo Okova, Morris Okova Stephen, Joy Inganga, Peter B, Okova, Dama Misenya Buluma, Godfrey Kagia Okova, Irine Makanda, Janet Kamande, Edwin Talameti Buluma, Joy Machio, Stella Namukhungu Buluma, Judith Ekaka Buluma, Violet Owanga Buluma, Paul Buluma Wamaya, Peter Wangaki, Maria Buluma, Jackson Wangaki, Alex Simwenyi, Mary Buluma, Belinda Awuor Obudo, Peter Okova, Edward Okova, Japheth Musoma Okova, Cyman Okova and Violet Okova. Salome Wangaki and Hellen Omoka are listed as sisters of the deceased, while Wilson Wangaki Okova is listed as a wife of the deceased. The deceased was described as having died possessed of a property known as Kakamega/Sango/115.

4. The cause was published in the *Kenya Gazette* of 29th April 2016. That provoked the filing of an objection in the cause by Godfrey Kagia Okova, on 3rd March 2017, dated 2nd March 2017. I shall refer to the said Godfrey Kagia Okova, hereafter as the objector. He argued that the petitioner petitioned for representation without due regard to the persons with prior entitlement to administration, consultation had not been done, the deceased had been survived by a widow who had prior right, the petitioner was a person of questionable character and the petitioner had not participated in redeeming the asset from the Settlement Fund Trust.

14. It would appear that, contrary to what is envisaged in sections 68 and 69 of the Law of Succession Act, Cap 160, Laws of Kenya, the objector did not follow up his objection with an answer to the petition and a cross-application. For avoidance of doubt the two provisions state:

> *"68. Objections to application*
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> *(1) Notice of any objection to an application for a grant of representation shall be lodged with the court, in such form as may be prescribed, within the period specified by such notice as aforesaid, or such longer period as the court may allow.*
>
> *(2) Where notice of objection has been lodged under subsection (1), the court shall give notice to the objector to file an answer to the application and a cross-application within a specified period.*
>
> *69. Procedure after notice and objections*
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> *(1) Where a notice of objection has been lodged under subsection (1) of section 68, or no answer or no cross-application has been*

filed as required under subsection (2) of that section, a grant may be made in accordance with the original application.

(2) Where an answer and a cross-application have been filed under subsection (2) of section 68, the court shall proceed to determine the dispute."

15. The notice of objection that issues under section 68(1) is not the basis of the objection proceedings. It is not a pleading upon which the court should conduct objection proceedings. The pleadings are the court papers that are filed under section 68(2), and the objection proceedings are conducted under the said pleadings by virtue of section 69(2), which says:

"*(2) Where an answer and a cross-application have been filed under subsection (2) of section 68, the court shall proceed to determine the dispute."*

16. Anyhow, directions were taken on 10th April 2017, on the basis of the notice of objection filed under section 68(1), without the answer to the petition and the application by way of cross-petition, envisaged under section 68(2) and 69(2). There really was no valid objection without the answer to the petition and the cross-petition, but it was, nevertheless, directed that the "objection" be disposed of by way of *viva voce* evidence, and that the parties be at liberty to file witness statements. There was compliance.

17. The matter was placed before me on 26th November 2018 for hearing, and I took oral evidence. The first on the witness stand was Godfrey Kagia Okova, the objector. He stated that the deceased was his father, while the petitioner was his cousin. He described Hellen Omoka as his aunt, asserting that she was not a beneficiary of the estate. He explained that the land in question had been acquired by his grandfather, whose name he did not disclose. He put the acreage of the land at 120 acres. He died in 1966, whereupon his sons chose one of them, the deceased herein, to take charge of the land. He did so until the 1980s when his brothers began to demand that the land be demarcated. That was done, and the land was shared out amongst the four brothers, the deceased herein, the late Stephen Okova Wangaki, the late Joseph Wekesa Obudo and the late Wilson Wangaki Okova. He stated that the said demarcation had be against the wishes of the Settlement Fund Trust as the loan for the purchase of the land was still outstanding. According to him, it was the deceased who had been servicing the loan after the death of their father. The four brother thereafter died, and the children of some of them, the families of the deceased herein and that of the late Stephen Okova Wangaki in particular. Hellen Omoka, was a late Joseph Wekesa Obudo. Around 2011, she began to till the land due to the late Joseph Wekesa Obudo. There was a dispute over some trees that were on that portion. She asserted that only the one surviving child of the late Joseph Wekesa Obudo was entitled to the land in question. He complained that the petitioner was not competent and therefore he did not deserve appointment as an administrator. He said that the petitioner could not call or hold a family meeting, and that part of the family land had been grabbed yet the petitioner had done nothing about it. He complained further that the petitioner had not consulted any of the family members before he initiated the cause. He complained further that the petitioner had not paid a single cent towards the redemption of the property from Settlement Fund Trust. He also averred that the petitioner had left one of the family members, being the objector's two sisters, Roberta and Janet.

18. During cross-examination, he stated that the land in question belonged to his grandfather, the late Peter Wangaki, who had four sons, being his father, the deceased, and his three brothers the late Stephen Okova Wangaki, the late Joseph Wekesa Obudo and the late Wilson Wangaki Okova. He said that he was not very clear on who the daughters of his grandfather were, that is the sisters of the deceased, but he named Hellen Omoka and Salome, and said there was another whose name he could not remember. He confirmed that during the demarcation of the land, the daughters did not feature. He stated that it was split into four portions with each of the sons taking thirty (30) acres. He complained that Hellen began to encroach on the land meant for the late Joseph Wekesa Obudo in 1983. He stated that he was unaware that the said Hellen was the administratrix of the estate of the late Joseph Wekesa Obudo. When shown the probate papers relating to the estate of the late Joseph Wekesa Obudo , he confirmed that thirty acres of what was due to Joseph Wekesa Obudo had been devolved to Helen, and that she was the one taking care of the said 30 acres, and that she lived on the said land. He stated that Salome had been having a marital problem and lived with Salome of the late Joseph Wekesa Obudo's land. He told the court that the late Joseph Wekesa Obudo had a daughter called Belinda, who lived in the United States of America, and that it was Hellen who took care of her interests in Kenya.

19. He asserted that he had objected so that his mother, the surviving spouse of the deceased, was accorded her priority to administration. Adding that he was objecting on her behalf. He put her age at 87 years. He also stated that he was asserting his father's house's right to administer the estate on account of the role it played in the redemption of the subject property. He referred to court proceedings that preceded the demarcation of the land between the deceased and his siblings. He stated that his family could not initiate the succession cause sooner as they were still repaying the loan and they only finished clearing the same in 2013. He conceded that he and his mother and brothers had been listed as survivors of the deceased, but argued that two of his sisters, Robai Maende and Janet Buluma, had been left out. He said that he was not objecting to the distribution that led to each of the sons of his grandfather getting 30 acres, saying that the 30 acres that accrued to the estate of the deceased was to be distributed according to the wishes of the widow of the deceased and his children. He stated that he had no issue with the 30 acres going to the family of the late Stephen Okova Wangaki, but that he had issues with what was given to the late Joseph Wekesa Obudo. He complained that Joseph Wekesa Obudo died after paying a very small portion of the outstanding dues, leaving the family of the deceased to clear the balance. He asserted that according to Settlement Fund Trust, the brothers of the deceased did not exist as the outstanding loan was settled in the name of the deceased. He asserted that Hellen did not pay anything for the share going to the late Joseph Wekesa Obudo. He asserted that the family of the deceased cleared the loan because the demands from Settlement Fund Trust were being addressed to them. He also said that they did not pay on the instructions of the other families. He stated that he did not complain about the family of the late Stephen Okova Wangaki, saying that they might have paid the whole amount due on their share.

20. Jackson Wangaki Buluma testified as the second witness on the side of the objector. He was a son of the deceased and a brother of the objector. He said that their brother Edwin Talameti Buluma was not involving them in the affairs of the estate, saying that he should play a role in the administration of the estate. He claimed that the property originally belonged to their grandfather, who had it registered in the name of the deceased. He mentioned those entitled to the property as the four sons of their grandfather, that is to say the deceased, the late Stephen Okova Wangaki, the late Joseph Wekesa Obudo and the late Wilson Wangaki Okova. He stated that he was not of the same mother with the objector, but he could not tell the name of his mother, saying that she died while he was young and that he was raised by the mother of the objector. He stated that each of the four families lived on their own side of the said property. He stated that he wanted to get his share of the deceased's land, and that his siblings should too get their own shares. .

21. Violet Ohanga Buluma followed. She was a daughter of the deceased. She described the petitioner as her cousin, as their parents were siblings. She described the objector as her elder brother. She asserted that the Settlement Fund Trust loan had not been completely cleared, according to records from that entity. She stated that the property ought to be shared out according to how each of the families contributed too clearing the loan. She also said that the property should be shared out in such a way as to enable each of one of them to have access to the river. She said that she did not dispute the distribution, her only problem being that she was not involved in the sharing. She stated that she was mentioned as one of the children of the deceased, but then said that two of her sisters had been left out. She said that she was not happy with the distribution proposed. She said that the distribution was done in the 1980s. She complained that she did not have access to the river. Joy Buluma Machiyo followed. Her testimony followed the same lines as that of Violet Buluma.

22. The petitioner's case opened on 13th November 2019, with Jeremiah Wangaki Obudo on the stand. He confirmed that the said property had been shared out equally amongst the four sons of their grandfather. He stated that the objector did pay monies to settle the debt to Settlement Fund Trust, but said that the money came from his, the petitioner's, father. He stated that he was unaware of what each of the four families contributed towards clearing the loan. He could recall contributing to pay Kshs. 300, 000.00, where he allegedly paid Kshs. 65, 000.00. He asserted that he had properly moved the court for representation to the estate of the deceased after having obtained a letter from the Chief. He said that he made an effort to consult through the Chief, it proved difficult, so he was given the letter and came to court. He said that the loan was cleared in 2011, and the families should now seek closure.

23. Helen Omoka followed. She described the deceased as her brother. She stated that she was unaware that the objector had settled the loan due to Settlement Fund Trust. She said Sinde Okova had been brought in to take care of the interests of the late Joseph Wekesa Obudo, but Sinde himself was not a beneficiary. She stated that the land was demarcated in 1983 and 1985, by the Lumakanda Land Board, between the deceased, the late Wilson Wangaki Okova, the late Stephen Okova Wangaki and the late Joseph Wekesa Obudo. According to her, the late Joseph Wekesa Obudo had done his part, in terms of clearing the loan. It was his three brothers who were yet to settle their parts. She could not, however, say how much he paid. She denied giving out any portion of the land due to the late Joseph Wekesa Obudo to anyone. She said she was unaware that part of the deceased's portion was sold and the proceeds brought to court. She said that she had not done anything on the land belonging to the late Joseph Wekesa Obudo and that the same was intact. She said that she was proposing appointment of four administrators to represent each of the four families. She said the petitioner could represent his father's family, while she represented the family of the late Joseph Wekesa Obudo, the objector the family of the deceased and Florence Okova the family of the late Wilson Wangaki Okova.

24. Florence Liavali Okova followed. She described the deceased as a brother-in-law, and herself as the widow of the late Wilson Wangaki Okova. She identified her cowife as Abby Muguzu. She said that she was unaware that the families of the deceased and the late Wilson Wangaki Okova were to pay money to AFC. She said she was not party to the proceedings in 1985. She said that her husband repaid the loan, and that each family lived on its own portion. She said that there were four portions. She said she lived on her husband's portion alone with her children, as her cowife had been bought land and settled elsewhere. Abby Muguzu testified last. She was a widow of the late Wilson Wangaki Okova. She said that she wanted her two children to be provided for. She said she knew nothing about the loan repayments.

25. At the end of the oral hearing the parties did not file written submissions. Instead they left it to me to decide on the issue of appointment of administrators.

26. The deceased person herein is Andrea Buluma Wangaki. This cause relates to his estate, for the subject property is registered in his name. Ideally, the cause ought to have been limited to members of his immediate family, that is to say his widow and his children. I believe that it is with that background in mind that the objector raised the objection to representation being made to the petitioner, who was not a child of the deceased. Ideally, the law is on the side of the objector. According to section 66 of the Law of Succession Act, priority to representation in the estate of an intestate. Such as the instant one, is given to the surviving widow, followed by the children of the deceased, with the other relatives of the deceased following thereafter. Section 66 of the Law of Succession Act says:

> *"66. Preference to be given to certain persons to administer where deceased died intestate*
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> *When a deceased has died intestate, the court shall, save as otherwise expressly provided, have a final discretion as to the person or persons to whom a grant of letters of administration shall, in the best interests of all concerned, be made, but shall, without prejudice to that discretion, accept as a general guide the following order of preference—*
>
> *(a) surviving spouse or spouses, with or without association of other beneficiaries;*
>
> *(b) other beneficiaries entitled on intestacy, with priority according to their respective beneficial interests as provided by Part V;*
>
> *(c) the Public Trustee; and*
>
> *(d) creditors:*
>
> *Provided that, where there is partial intestacy, letters of administration in respect of the intestate estate shall be granted to any executor or executors who prove the will."*

27. It will be seen that section 66 is dependent on Part V o f the Law of Succession Act. Part V provides for sharing or division of the estate of an estate. In that sharing priority is given to the surviving spouse, followed by children, followed by the parents of the deceased, followed by the siblings of the deceased, followed by the other relatives of the deceased. Part V runs from section 32 to section 42 of the Law of Succession Act. Sections 35, 36 and 37 are about the shares and interests of surviving spouses, and to a lesser extent those of the children. Section 38 is about the rights of children where there is no surviving spouse, while section 39 is about the rights of other relatives. The ultimate destination of the property of a parent is his or her children, but where there is a surviving spouse, then his or her rights are placed ahead of those of the children, by giving the spouse a life interest over the property due to the children.

28. The provisions that I have referred to state as follows:

> *"PART V – INTESTACY*
>
> *32. …*
>
> *33. …*
>
> *34. …*
>
> *35. Where intestate has left one surviving spouse and child or children*
>
> *(1) Subject to the provisions of section 40, where an intestate has left one surviving spouse and a child or children, the surviving spouse shall be entitled to—*
>
> *(a) the personal and household effects of the deceased absolutely; and*
>
> *(b) a life interest in the whole residue of the net intestate estate: Provided that, if the surviving spouse is a widow, that interest shall determine upon her re-marriage to any person.*
>
> *(2) …*
>
> *(3) …*
>
> *(4) …*
>
> *(5) Subject to the provisions of sections 41 and 42 and subject to any appointment or award made under this section, the whole residue of the net intestate estate shall on the death, or, in the case of a widow, re-marriage, of the surviving spouse, devolve upon the surviving child, if there be only one, or be equally divided among the surviving children. [Act No. 8 of 1976, s. 7, Act No. 16 of 1977, Sch.]*
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> *36. Where intestate has left one surviving spouse but no child or children*
>
> *(1) Where the intestate has left one surviving spouse but no child or children, the surviving spouse shall be entitled out of the net intestate estate to—*
>
> *(a) the personal and household effects of the deceased absolutely; and*
>
> *(b) the first ten thousand shillings out of the residue of the net intestate estate, or twenty per centum thereof, whichever is the greater; and*
>
> *(c) a life interest in the whole of the remainder: Provided that if the surviving spouse is a widow, such life interest shall be determined upon her re-marriage to*
>
> *(2) The Minister may, by order in the Gazette, vary the amount specified in paragraph (b) of subsection (1).*
>
> *(3) Upon the determination of a life interest created under subsection (1), the property subject to that interest shall devolve in the order of priority set out in section 39. [Act No. 8 of 1976, s. 8.]*
>
> *37. Powers of spouse during life interest*
>
> *A surviving spouse entitled to a life interest under the provisions of section 35 or 36 of this Act, with the consent of all co-trustees and all children of full age, or with the consent of the court shall, during the period of the life interest, sell any of the property subject to that interest if it is necessary for his own maintenance:*
>
> *Provided that, in the case of immovable property, the exercise of that power shall always be subject to the consent of the court.*
>
> *38. Where intestate has left a surviving child or children but no spouse*
>
> *Where an intestate has left a surviving child or children but no spouse, the net intestate estate shall, subject to the provisions of sections 41 and 42, devolve upon the surviving child, if there be only one, or shall be equally divided among the surviving children.*
>
> *39. Where intestate has left no surviving spouse or children*
>
> *(1) Where an intestate has left no surviving spouse or children, the net intestate estate shall devolve upon the kindred of the*

intestate in the following order of priority—

(a) father; or if dead

(b) mother; or if dead

(c) brothers and sisters, and any child or children of deceased brothers and sisters, in equal shares; or if none

(d) half-brothers and half-sisters and any child or children of deceased half-brothers and half-sisters, in equal shares; or if none

(e) the relatives who are in the nearest degree of consanguinity up to and including the sixth degree, in equal shares.

(2) Failing survival by any of the persons mentioned in paragraphs (a) to (e) of subsection (1), the net intestate estate shall devolve upon the State, and be paid into the Consolidated Fund."

29. Going by the provisions of section 66 of the Law of Succession Act, read together with Part V of the same Act, it is quite clear that priority in administration should be given to the surviving spouse and the children of a deceased person. In this case, am told that the widow of the deceased was alive, and she had children with the deceased, who included the objector. The petitioner was said to be a cousin of the objector, being a son of one of the brothers of the deceased. When section 66 of the Law of Succession Act is applied to those facts, it would mean that the surviving widow of the deceased had a prior to administration over the petitioner. The objector too had a prior right to administration of the estate of the deceased over the petitioner. He is a child of the deceased, the petitioner is not. It would appear that the sister of the deceased, Hellen Omoka, has an even a better claim to administration than the petitioner, going by the above provisions. The objection by the objector, therefore, cannot be said to be without merit.

30. Section 66 of the Act, should always be read together with Rules 7(7) and 26 of the Probate and Administration Rules. The Probate and Administration Rules set out the procedures that give life to the provisions of the Law of Succession Act. The two Rules above are specifically intended to breathe life to section 66. They require that where the person petitioning for representation has a lesser right or entitlement to administrator, like the petitioner herein has vis-à-vis the objector and others, such petitioner should comply with Rules 7(7) and 26. He can either get the persons with superior rights or entitlement to renounce their right or to consent to him applying or cause citations to issue to them to apply for representation. These provisions are in mandatory terms. A persons with a lesser right or entitlement cannot jump the queue without notice to those with prior right or without getting their consent or whatever else is required by the Rules.

31. Rules 7(7) and 26 of the Probate and Administration Rules says as follows:

"7 (7). Where a person who is not a person in the order of preference set out in section 66 of the Act seeks a grant of administration intestate he shall before the making of the grant furnish to the court such information as the court may require to enable it to exercise its discretion under that section and shall also satisfy the court that every person having a prior preference to a grant by virtue of that section has –

(a) renounced his right generally to apply for grant; or

(b) consented in writing to the making of the grant to the applicant; or

(c) been issued with a citation calling upon him to renounce such right or to apply for a grant.

26(1). Letters of administration shall not be granted to any applicant without notice to every other person entitled in the same degree as or in priority to the applicant.

(2). An application for a grant where the applicant is entitled in a degree equal to or lower than that of any other person shall in default of renunciation, or written consent in Form 38 or 39, by all persons so entitled in equally or *priority, be supported by an affidavit of the applicant and such other evidence as the court may require."*

32. From the material before me, I can see that the petitioner was not an immediate member of the family of the deceased. He was a nephew of the deceased, yet the deceased is survived by a widow and children and siblings. These categories have a superior entitlement or claim to administration over him. That then required of him to comply with Rules 7(7) and 26 of the Probate and Administration Rules, by doing those things that those two rules require. He did not do any of the things envisaged in those provisions. The provisions are in mandatory terms. Failure to comply with them can be fatal. The petitioner should, naturally, cede ground to those that were more closely related to the deceased than he was.

33. It is common ground that the property comprising the estate of the deceased did not belong to him absolutely. His immediate survivors have conceded as much. The deceased was entitled to just about ¼ of the said property, and held the rest in trust for the homilies of his late father. That is not in dispute. Among those entitled would include the family of the petitioner. However, that still does not override the provisions of section 66 of the Law of Succession Act and Rules 7(7) and 26 of the Probate and Administration Rules. The objector, his mother, his siblings and his aunts still had a superior right or entitlement to administration over the estate of the deceased as against the petitioner. His right is lesser or subordinate to theirs. He should have consulted. He should have obtained their consents. He should have caused citations to issue for service upon them.

34. I see from his petition that he styled as a son of the deceased. That was a falsehood. That falsehood is compounded in the affidavit that he

swore on some unknown date in 2015 in support of his petition. He averred to be a son of the deceased. He was not a son of the deceased, but a nephew of the deceased. His father was a brother of the deceased, which no doubt made him a nephew, nit a son, of the deceased. He is using these false averments to have the court grant him representation to the estate of the deceased when he ranks lower in priority to the objector, to the widow of the deceased, to the children of the deceased and to his two surviving aunts. I persons who lies on oath like this cannot, surely, be entrusted with property belonging to another. He is a person that a court should be wary appointing to the high office of an administrator, which is a position trust. I shall refrain from considering him for appointment to any office of trust.

35. The parties dwelt a lot on who was entitled to what share in the estate and who played what role in the redemption of the subject asset from the jaws of the Settlement Fund Trust and how the property ought to be distributed. What I have before me is an objection to a petition for grant representation. At this stage, of objection proceedings, and sections 68 and 69 of the Law of Succession Act are clear on this, the only issue for consideration is appointment of an administrator or making of a grant of representation. It has nothing to do with distribution of the estate. A lot of the issues raised at the oral hearing ought not to have been raised at all, for they were not relevant to the question of appointment of administrators and making of grants, but had something to do with distribution. Distribution comes after appointment of administrators and the making of grants, and specifically at the confirmation of the grant. Let the parties raise those issues at that time. I shall not address my mind to them at this stage as those issues ought not to be before me at this stage.

36. Ideally, at the conclusion of objection proceedings the court appoints administrators or makes a grant of representation. Unfortunately in this case, as I have already said, the objector's pleadings are incomplete. He has not cross-petitioned for appointment as administrator. I only have the petition by the petitioner, there is no cross-petition. With regard to the petition I have found that the petitioner is not fit for appointment for the reasons given in the body of this judgement, so I shall not appoint him as sought in his petition. Since there is no cross-petition, I shall not, in this judgement, consider any other person for appointment, since I do not wish to impose administrators on the parties. I shall leave the matter open for the family to consult.

37. As the property of the estate is held in trust for the extended family, it may be prudent that administration of that property should be committed to more than one administrator, to accommodate the other families that have an interest in it. It is only democratic to go that way.

5. In the end, the final orders that I shall make, in disposal of the "objection," are as follows :

(a) That I hereby decline to appoint the petitioner herein the administrator of the estate of the deceased;

(b) That I hereby declare that administration of the intestate estate of the deceased shall be committed to persons representing the four families, that is to say the families of the deceased herein, the late Stephen Okova Wangaki, the late Joseph Wekesa Obudo and the late Wilson Wangaki Okova;

(c) That the said four families are hereby given thirty (30) days to consult and agree on an administrator from each of them, who shall exclude the petitioner herein;

(d) That the matter shall be mentioned after thirty (30) days for compliance and appointment of administrators;

(e) That each party shall bear their own costs; and

(f) That any party aggrieved by the orders, and, generally, by the judgment, herein, has twenty-eight (28) days, to challenge the same at the Court of Appeal.

DELIVERED DATED AND SIGNED IN OPEN COURT AT KAKAMEGA ON THIS 27TH DAY OFFEBRUARY 2020

W. MUSYOKA

JUDGE