



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI**

**(FAMILY DIVISION)**

**SUCCESSION CAUSE NO 481 OF 2018**

**IN THE MATTER OF THE ESTATE OF FELISTA WANJIRU KANYI (DECEASED)**

**TERESIA WAITHERA WANJIRU.....1<sup>ST</sup> APPLICANT**

**DAVID MUCIRI KANYI ..... 2<sup>ND</sup> APPLICANT**

**VERSUS**

**MOSES MUCHIRI NYAKIO**

**(Sued as the Administrator of the Estate**

**of FELISTA WANJIRU KANYI (DECEASED).....RESPONDENT**

**R U L I N G**

1. The application subject of this ruling is dated 1<sup>st</sup> July, 2019 and seeks for leave to amend the application for revocation of grant dated 5<sup>th</sup> February, 2019.
2. The application is predicated on grounds that the Applicants came across evidence that necessitates the intended amendment and which evidence will assist the court arrive at a just and fair determination of the matter.
3. The intended amendments include a prayer for forensic examination, provision arising of accounts, reasonable provision, and appointment of the applicants as a co-administrators alongside the earlier prayer for revocation.
4. The application was objected to by way of a replying affidavit, as being a delaying tactic, that ordering for forensic examination will impute negatively on the respondent, and it is premature to order for accounts, or seek to replace the administrator.
5. For now the court is not dealing with merits or demerits of the amended application. The court is being asked to allow the applicant amend and place before court their prayers.
6. It is settled law that a party should not be shut from presenting his/or her case before court. Further I see no likely prejudice to be suffered should the applicants amend their application. After all the respondent will have a corresponding leave to respond to the new issues being raised.
7. Consequently, leave be and is hereby granted for the applicants to file their amended application within the next 14 days of the date hereof.
8. The Respondent be at liberty to file a response to the amended application 14 days upon service.
9. Costs in the cause.

**Dated and Delivered in Nairobi on this 20<sup>TH</sup> day of FEBRUARY, 2020.**

**ALI-ARONI**

**JUDGE**