



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KITALE**

**SUCCESSION CAUSE NO. 27 OF 2017**

**IN THE MATTER OF THE ESTATE OF THE LATE HANSON NICHOLAS CHARLES (DECEASED)**

**ROBERT NDIEMA HANSON}**

**IRENE CHEBENI HANSON}...PETITIONERS/APPLICANTS**

**VERSES**

**JANE NABUTUTU NICK.....RESPONDENT**

**RULING**

1. The Applicants chamber summons dated 23<sup>rd</sup> September, 2019 prays for the orders that this court do order the releases of the sum of kshs. 400,000 from the deceased account at Barclays Bank of Kenya so as to use the said amount for the running of Cavandale Farm that belonged to the estate. The said amount would be as well for the payment of school fees for ERNEST HANSON who is a student at Nairobi University.
2. The application is supported by the joint sworn affidavit of the Applicants herein dated the same date. The grounds contained in the said application are that the estate needs to pay the said amount for harvesting of coffee, buying farm implements as well as paying wages and the general maintenance of the farm.
3. The application has been opposed by the Respondent via her Replying Affidavit dated 23<sup>rd</sup> October, 2019. She deponed that allowing the prayers sought would be depleting the estate piecemeal. She said that the Applicants have not demonstrated what they have done with the proceeds from the coffee harvest since the demise of the deceased in the year 2017.
5. She further stated that the Farm implements have been available before the deceased died and that the list of the employees was not accurate and was suspicious.
5. This court ordered the parties to file written submissions in disposing this application and the court has perused the same and does not intend to reproduce them here.
6. When the application came up for hearing, the court ordered the bank to release the sum of Kshs. 80,000 to University of Nairobi being fees for Ernest Hanson and essentially that limb of the prayer was discharged.
7. In regard to the prayer for the release of the sum of Kshs. 400,000, the same is hereby denied for the following reasons. First of all, this court in a similar application on 30<sup>th</sup> May, 2018 ordered a release of a sum of Kshs.750,000 for the maintenance of the same coffee farm. It's hardly a year and the applicants have made similar application. They have not as rightly observed by the respondent given an account of what they did with the said amount.
8. More importantly they have not accounted for the proceeds from the coffee harvest since the demise of the decease. Surely there must have been some harvest and proceeds therefrom must be demonstrated. It is therefore not true to suggest that there is no gain from the farm.
9. It further appears from the unchallenged response by the Respondent that other than coffee, the deceased did other farming activities including dairy. Proceeds from the same must be utilised to sustain the estate.
10. Finally, allowing the application other than merited cause like school fees, which must also be proved would essentially be tantamount to dealing with the distribution of the estate piecemeal. It is also not lost to the court that the estate and specifically the will is contested.

11. Having in any even allowed the objector to participate in running the affairs of the estate through opening of accounts, the court expects the administrators to be prudent in managing the estate but not plundering the same before distribution. The hearing which is in the process ought to be hasten.

12. The application is otherwise disallowed with no orders as to costs.

**Dated, signed and delivered in open court at Kitale this 10<sup>th</sup> March, 2020.**

---

**H. K. CHEMITEI**

**JUDGE**

**10/3/2020**

**In the presence of:-**

**Mengich for Respondent**

**Onderi holding brief for Teti for the Petitioner**

**Court Assistant – Silvia**

**Ruling read in open court**