



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**FAMILY DIVISION**

**SUCCESSION CAUSE NO. 2220 OF 2014**

**IN THE MATTER OF THE ESTATE OF ALOIS OBUNAKA ESHIKUMO (DECEASED)**

**RULING**

1. The deceased **Alois Obunaka Eshikumo** died on the 4<sup>th</sup> of November, 2008 and on the 24<sup>th</sup> of February, 2015 grant of Letters of Administration were issued to the Public Trustee.
2. In its initially application to court and based on a letter dated 28<sup>th</sup> June, 2012 the Public Trustee indicated that the deceased was survived by his parents **Joseph Eshikumo** and **Frida Achungo Shikomo**.
3. However just before the application for confirmation could be set down for hearing the Public Trustee in a letter addressed to her by the District Commissioner Khwisero and dated 26<sup>th</sup> February 2016 was informed that the deceased left behind a widow, **Beverly Akeng'o Atenya** and a child, **Amanda Janepher Nyakowa**
4. Following the above, the Public Trustee moved this court on the 3<sup>rd</sup> of July, 2017 seeking to have the court interrogate the matter and make a determination as to who the correct beneficiaries of the Estate are.
5. In order to arrive at a determination, the court on the 10<sup>th</sup> of July, 2018 directed as follows;  
  

**“That Joseph Eshikomu Odhiambo and Amanda Janepher Nyakowa do undergo a DNA test at the Government Chemist to ascertain whether Amanda Janepher Nyakowa is the grand child of Joseph Eshikumo Odhiambo.”**
6. The Government Chemist in error conducted a test to ascertain whether the subject is a child of Joseph Eshikumo Odhiambo as opposed to a grandchild.
7. Based on the error the results were negative. It is not for this court to assume that since the subject was not found to be a child of **Joseph Eshikomu Odhiambo**, that, it therefore follows that he is not the child's grandfather.
8. Consequently, the parties are to report back to the Government Chemist who should rectify the anomaly.
9. For avoidance of doubt **Joseph Eshikomu Odhiambo** is a purported grandfather of **Amanda Janepher Nyakowa** and the court wants to establish whether there is any link between the two through the deceased **Alois Obunaka Eshikumo** alleged father.
10. The Public Trustee is directed to facilitate the Government's Chemist repeat results at no cost to the litigants.
11. Matter to be mentioned within 60 days.

**Dated Delivered and signed this 11<sup>th</sup> day of June, 2020.**

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**ALI-ARONI**

**JUDGE**