



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KAKAMEGA**

**SUCCESSION CAUSE NO. 369 OF 2014**

**IN THE MATTER OF THE ESTATE OF MADONGO WASIRWA**

**alias MATONGO WASIRUA (DECEASED)**

**RULING**

1. On 30<sup>th</sup> April 2020, I delivered a ruling on the confirmation application dated 17<sup>th</sup> April 2015, in which I postponed the confirmation application to allow the administrator comply with court orders made on 25<sup>th</sup> April 2016, which had required him to avail all the beneficiaries in court and to file an affidavit to disclose all the beneficiaries.

2. The administrator only partially complied with the first limb of that order, by a court, on 29<sup>th</sup> July 2020, thirteen individuals, inclusive of himself, who he claimed were beneficiaries of the estate of the deceased. He did not file a further affidavit to make a disclosure of the beneficiaries. Those in attendance, on 29<sup>th</sup> July 2020, were Wafula Madongo, Naomi Nyangweso Matongo, Pamela Khamonya Juneh, Sylvia Nafula Wekesa, Jackline Nafula, Metrine Lela, Jackline Nerima, Jackline Nambande Madongo, Zebediah Nangóli Ndasaba, Martin Shikuku Barasa, Brian Masinde Wekesa, Edwin Madongo Wekesa and Jim Shiundu Musawe.

3. At the time of the ruling of 30<sup>th</sup> April 2020, there was only one summons for confirmation of grant before me, dated 9<sup>th</sup> June 2015, which sought to distribute a property known as North/Kabras/Kivaywa/105, amongst five named individuals, who had signed the requisite consent in Form 37. At the time the individuals named in paragraph 2 here above were presented before me on 29<sup>th</sup> July 2020, another confirmation application had been placed on record, dated 2<sup>nd</sup> June 2020, filed in court on even date, seeking to distribute another property, North Kabras/Kivaywa/98, amongst some six individuals, who had also signed consents in Form 37. The administrator explained that he had established that that property belonged to the deceased, hence the application. It was needless to file a second application, since there was one pending already. He should have just filed a supplementary affidavit. However, no one suffers any prejudice. The two applications shall be disposed of simultaneously.

4. As none of the individuals who appeared before me on 29<sup>th</sup> July 2020, expressed opposition or objection to the distribution proposed in the two applications, dated 9<sup>th</sup> June 2015 and 2<sup>nd</sup> June 2020, I shall accordingly allow the applications in the terms proposed. The estate of the deceased shall be disposed of as per the proposals in the affidavits sworn in support thereof. The grant on record is hereby confirmed in those terms. A certificate of confirmation of grant to issue to the administrator accordingly. It is so ordered.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 16<sup>th</sup> DAY OF October 2020**

**W. MUSYOKA**

**JUDGE**