

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

MISCELLANEOUS CIVIL APPLICATION NO. 11 OF 2019

(CORAM: R.E. ABURILI – J.)

MILLICENT ACHIENG OMBEWA.....1ST APPELLANT

LUCIA ABAJA OTIENO.....2ND APPELLANT

JANET APEL OTIENO.....3RD APPELLANT

VERSUS

MEDICAL SUPERINTENDENT-

BONDO SUB-COUNTY HOSPITAL.....RESPONDENT

RULING:

1. I have considered the Applicant's application under certificate of urgency dated 26.3.2019 and the supporting affidavit and annexures thereto.

2. I note that there is a clear order issued on 5.11.2018 for interment of the deceased Charles Ombewa Otieno. The Court made it clear that the Appellants bury the deceased and on mortuary charges, the Court ordered the Respondent to meet the same or the Appellant to pay the same and claims reimbursement from the Respondent.

3. There is a receipt dated 21.3.2019 on record to show that the Medical Superintendent of Bondo Sub-County Hospital who is being Accused of detaining the deceased's body was paid KShs.29,000/= being mortuary charges. That being the case, there is no reason why the deceased's body is still being detained in the mortuary, in the absence of any Court order staying the judgment of this Court delivered on 5.11.2018.

4. Accordingly, I order that the Respondent do forthwith release the body of the deceased Charles Ombewa Otieno being held at Bondo Sub-County Hospital to the Applicants herein:

1. Millicent Achieng Ombewa,
2. Lucia Abaja Otieno and
3. Janet Apel Otieno

for interment in accordance with the decree of this Court of 5.11.2018 which has not been challenged or overturned by any superior Court.

5. Orders accordingly.

SIGNED, DATED AND DELIVERED AT SIAYA THIS 27TH MARCH, 2019.

R. E. ABURILI

JUDGE