

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI

(FAMILY DIVISION)

SUCCESSION CAUSE NO 2461 OF 2010

IN THE MATTER OF THE ESTATE OF JOEL KARIUKI WAITITU (DECEASED)

JOSEPH KAMAU KARIUKI.....APPLICANT

VERSUS

BIBIANA WAMBUI KARIUKI.....RESPONDENT

R U L I N G

1. The application before court filed on 20th of July, 2018 seeks to preserve the estate and properties that allegedly belonged to the estate and which were irregularly transferred to the third widow of the deceased in circumstances that are said not to be clear, and to the detriment of other family members.
2. It is also claimed that the deceased had 3 wives and only the third one who lived with the deceased prior to his death has so far benefited from the deceased estate.
3. It is also alleged that the deceased was sickly prior to his death; the alleged Will of the deceased has been challenged and unless orders are issued the 1st and 2nd families are likely to suffer loss.
4. The Respondent filed grounds of opposition dated 23rd of August, 2018 to the effect that orders being sought for cannot be granted as the properties in question do not form part of the estate.
5. The application challenging the Will is yet to be disposed of.

There is also an allegation that the third widow got properties transferred to herself while the deceased was sick in his last days. No doubt the application and the response herein bring forth issues that need to be determined.

6. Since the applicants simply seek to preserve the estate, and in what may have been irregularly obtained I see no prejudice likely to be suffered by the respondent and I therefore grant prayers 2 and 3 with variation that all monies be paid into a joint account to be opened by of counsel on record for the parties.
7. I further direct that all pending applications be set down for hearing within the next 30 days of the date hereof.
8. Cost will abide the outcome of the cause.

Dated and Delivered in Nairobi on this 14th day of March 2019

.....

ALI-ARONI

JUDGE