



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI**

**(FAMILY DIVISION)**

**SUCCESSION CAUSE NO 1073 OF 2001**

**IN THE MATTER OF THE ESTATE OF JORAM KIGIA (DECEASED)**

**MICHAEL KUNGU KIGIA.....PROTESTOR**

**R U L I N G**

1. The application before court is by a beneficiary Michael Kungu Kigia dated 4<sup>th</sup> November, 2017 which seeks to have the Executor and 4 others, who he claims to have been in charge of a 5 acre land which he refers to as the Tea Estate comprising part of the estate, account for income from October, 2000 to 2018.
2. The application is based on allegations that those named failing to account and disinheriting daughters of the deceased.
3. Further the application is supported by the affidavit of the Applicant dated 4<sup>th</sup> March 2018 where he states inter alia that the amounts earned from the estate for 18 years amount to 17 million shillings and which he seeks to have deposited in court.
4. The application was opposed vide a replying affidavit of Joseph Karuga Kigia on behalf of the other 4 Respondents, where he denies knowledge of property Gatamaiyu/Nyandarua/192 alleged by the applicant to have been purchased by one Wanjiru Karuga. He further stated that their father left 1¼ acres of land with 4,200 tea bushes and 2 rooms let at Kshs.500 and 600 respectively. He states further that in a family meeting of 28<sup>th</sup> October 2000, in the presence of the applicant, the family appointed him chairman and administrator of their father's estate. That they have had permanent employees on a salary and at end of year meetings held since, any surplus monies would be divided to the widows in equal shares, and after the demise of the widows the last born children of the two houses receive on behalf of their siblings and share equally including the Applicant. Further the gross income is about Kshs.200,000 or thereabout.
5. An audited account was produced by the Respondents in court which the Applicant dismissed as lies.
6. Having heard supporting affidavits between the parties and submissions made I note that there were several issues raised regarding the assets of the deceased further an issue arose on acreage of land, this in my view will have to be considered at distribution and indeed by reference to the title deeds and where none exist from records in the Ministry of Lands.
7. On the issue of accounts I am satisfied that the respondent has rendered accounts which appear reasonable. The accusation by the Applicant that the same are fabricated was not substantiated or supported by evidence.
8. Consequently, I direct that this being a fairly old matter, the pending application for confirmation of grant dated 31<sup>st</sup> October, 2018 be set down for hearing and served upon all beneficiaries. Protests if any may be filed 14 days upon receipt of the same.
9. Costs in the cause.

**Dated and Delivered in Nairobi on this 24<sup>th</sup> day of October, 2019.**

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**ALI-ARONI**

**JUDGE**