



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 227 OF 1995**

**IN THE MATTER OF THE ESTATE OF SHAMALLA MOMO (DECEASED)**

**RULING**

1. The grant herein was confirmed on 26<sup>th</sup> September 2013, in a ruling that was delivered by Dulu J, on an application dated 27<sup>th</sup> April 2010. Thereafter, several applications were lodged herein. One application was dated 25<sup>th</sup> January 2014 and the other was dated 20<sup>th</sup> January 2016.
2. The application dated 25<sup>th</sup> January 2014 sought review of the distribution of the estate. The distribution envisaged in the application is not identified, in terms of when the orders were made, but I presume it is the orders that Dulu J made on 26<sup>th</sup> September 2013. The application was made at the behest of Elijah Masinde Shamalla. The application was responded to by Elijah Kona Shamalla, through his affidavit sworn on 24<sup>th</sup> May 2014. Directions were given on 12<sup>th</sup> May 2015, for disposal of the application by way of affidavit and oral evidence.
3. The application dated 20<sup>th</sup> January 2016 was at the instance of Dinah Khatioli Mukhwana, Agnetta Obeeli Lumbasi and Mary Ivayo Shamala, to substitute their parents who were beneficiaries and who had died.
4. The matters came up for hearing on several occasions and were adjourned. Eventually the application dated 20<sup>th</sup> January 2016 was allowed on 12<sup>th</sup> July 2019 by consent.
5. The application dated 25<sup>th</sup> January 2014 was, on 16<sup>th</sup> July 2019, fixed for hearing on 25<sup>th</sup> September 2019, in the presence of Elijah Kona Shamalla and Mr. Munyendo. It was also directed that no adjournment would be allowed on that day. Come 25<sup>th</sup> September 2019, only Elijah Kona Shamalla attended court. He addressed the court at length on several issues, none of which touched on the application. As what was up for hearing was the application dated 25<sup>th</sup> January 2014, and the applicant and his advocate did not attend court to argue it, I shall, in the circumstances, dismiss the said application with costs to Elijah Kona Shamalla.
6. On the various matters that Elijah Kona Shamalla addressed me on, I shall advise that he files a formal application so that the other parties get opportunity to respond to them. It is so ordered.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 29<sup>TH</sup> DAY OF NOVEMBER, 2019**

**W. MUSYOKA**

**JUDGE**