



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI**

**(FAMILY DIVISION)**

**SUCCESSION CAUSE NO 3012 OF 2012**

**(AS CONSOLIDATED WITH SUCC CAUSE NO. 274 OF 2014)**

**IN THE MATTER OF THE ESTATE GEORGE KIMANI GATURU ALIAS KIMANI GATURU  
(DECEASED)**

**JAMES WAMWENJA KIMANI.....APPLICANT**

**VERUS**

**LUCY WATARO MWANGI.....RESPONDENT**

**R U L I N G**

1. The deceased herein **George Kimani Gaturu** died on the 25<sup>th</sup> of December 2006. And since 2012 his sons and daughters have been engaged in protracted court proceedings. On the 21<sup>st</sup> of February 2019 Amos Ndung'u Kimani, a son and Lucy Wataro Mwangi a daughter were appointed administrators.

Their names were gazetted on the 21<sup>st</sup> of June, 2019 and a grant should have since been issued.

2. However, in an application dated 20<sup>th</sup> May 2019 James Wamwenja Kimani applied to be substituted in place of George Kimani on grounds that George Kimani is ailing and unable to discharge his duties as an administrator.

In support of the said application is a letter from Nazareth hospital indicating that Amos George Kimani had been hospitalised and is known to be epileptic and hypertensive. Amos George signed general a consent which is not specific on what he was consenting to.

3. The application is hotly contested by Lucy Wataro Mwangi on grounds that the Applicant James Wamwenja Kimani is opposed to sisters inheriting, has threatened physical violence, has previously intermeddled and interfered with the estate, yet Amos George Kimani is none violent and accommodating of his sisters, further no evidence has been produced in court to prove that Mr. Kimani is unable to discharge the duties of a co-administrator.

4. The document from Nazareth hospital states that Amos George Kimani has two medical conditions, is on medication and in a stable condition.

5. **Section 66** of the **Law of Succession Act** gives the discretion of appointing administrators to the court. And it is not lost to the court that having heard a protracted objection it arrived at the conclusion that the

most suitable persons to administer the estate were **Lucy Wataro Mwangi** and **Amos George Kimani**.

6. Amos George Kimani has had the two conditions for a while even when the objection proceedings were on-going. Further the Applicant is not acceptable by other beneficiaries which was indeed the case previously.

7. In my view since the administrators were gazetted the grant ought to issue forthwith and the two who may complement one another and whose duties are not so onerous should proceed to apply for confirmation and distribute the estate in not later than the next 90 days.

8. The is Application therefore declined with costs to the Respondent.

**Dated and Delivered in Nairobi on this 19<sup>TH</sup> day of December, 2019**

**ALI-ARONI**

**JUDGE**