



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI (FAMILY DIVISION)**

**SUCCESSION CAUSE NO 1292 OF 2017**

**IN THE MATTER OF THE ESTATE OF RUGA GITUKU**

**(DECEASED)**

**HANNAH GATHONI RUGA.....APPLICANT**

**VERSUS**

**JOYCE WANGECHI RUGA.....RESPONDENT**

**RULING**

1. The deceased herein Ruga Gituku died intestate leaving behind two families who have since been embroiled in a tussle on the administration of the Estate as a result several applications have been filed. The applicant is his widow (2<sup>nd</sup> wife) and the respondent a daughter from his 1<sup>st</sup> wife, also deceased.

2. The Parties have been able to resolve some issues and the court on its part has granted several orders including an order requiring the joint administrators to appoint a firm to manage collection of rent on behalf of the estate and deposit the same in an account in the names of the joint administrators. The said order remains in force and has not been varied, set aside or discharged.

3. The issues pending determination as identified by parties include the appointment of an Estate agent to manage the rental premises, Payment of school fees and Maintenance of the applicant's children and occupation and access of **Mukurweini home-Gikondi/Kiirungi/681**.

4. From the pleadings and conduct exhibited by the two families, they are completely at logger heads, the administrators are no better, as the two are pulling in different directions, obviously at the centre of this controversy is the rental income from the estate. Each administrator has her own list of assets and an alleged figure of income from the same. They certainly cannot manage the properties.

5. Appointment of a realtor to manage the properties by collecting rent, paying outgoing, following up arrears does not in any way interfere with the duties and obligations of the administrators as the realtor will account to the administrators and indeed the court. Despite the court order and several reminders, the respondent has declined to propose a firm of realtors. The Applicant on her part proposed three firms. Having considered the profile of the three firms the court hereby appoints **Mamuka Valuers (M) Limited** to generally manage the income generating assets of the estate, by collecting rent, paying outgoing as approved by the administrators and thereafter remitting the balance of the rent in to a joint account in the names of the administrators. The firm will render a monthly account not later than the 10<sup>th</sup> of every month to the counsel on record for the administrators.

6. As regards school fees and upkeep of the Applicants' children it is premature in my view in the absence of proper accounts to make such an order. The applicant be at liberty to move the court on the issue within the next three months.

7. As regards occupation of the Mukurweini home in my view since both families claim an interest in the same as members of one family they should be able to agree on how the same can be shared and/or utilized by both families.

The house is five storeyed each of the families with adjustment ought to be able to occupy a portion of the same.

Counsel for the parties are directed to have a joint meeting forthwith with the parties to see how both families can access and occupy a portion of the huge home. Parties are warned that any interference with the portion set aside for the other will amount to contempt of this court's order.

8. This being a family matter each party to meet their own costs.

**SIGNED DATED AND DELIVERED IN OPEN COURT THIS 19TH DAY OF DECEMBER, 2019.**

.....

**ALI-ARONI**

**JUDGE**