



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

SUCCESSION CAUSE NO. 409 OF 2014

IN THE MATTER OF THE ESTATE OF ANNAH BOERA ANGWENYI (DECEASED)

AND

IN THE MATTER OF THE LAW OF SUCCESSION ACT, CAP 160

AND

IN THE MATTER OF APPLICATION FOR ANNULMENT OF GRANT OF LETTERS OF ADMINISTRATION

BETWEEN

JOHN ONTITA ANGWENYIPETITIONER/RESPONDENT

AND

JANE ANGWENYI.....OBJECTOR/APPLICANT

RULING

1. The summons before the court is dated 28th May 2018 and it is by **JANE ANGWENYI** who claims that she was a dependant of the deceased and her name was not disclosed nor her consent sought in petitioning for the grant of the estate of the deceased, Annah Boera Angwenyi who died on 13th February 2014.
2. The Petition of grant of letters of administration was lodged by the deceased's son, John Ontita who named the deceased's daughters and daughters in law as survivors. The grant was issued to him on 6th July 2016 and subsequently confirmed on 9th February 2017.
3. According to the Certificate of Confirmation, the administrator was to hold WEST KITUTU/MWAGICHANA/79 and CENTRAL KITUTU/MWAMOSIOMA/1911 in trust for himself and Teresia Kerubo Obagwa, Joyce Bonareri Angwenyi, Carolyne Nyangatare Angwenyi, Eunice Kwamboka Angwenyi, Prisca Angwenyi, Prisca Masese Tumbo and Jane Angwenyi. Having looked at the consent filed in court, Form P & A 5 and the Certificate of Confirmation, I am satisfied that the said Jane Angwenyi, as daughter in law of the deceased, was duly recognized and provided for. Accordingly, I do not find any reason to annul the grant. I therefore dismiss the summons for annulment dated 28th May 2018.
4. I note from the replying affidavit of John Ontita sworn on 5th June 2018, the issue in dispute is that subdivision of the property has not been agreed upon yet and it is alleged that the applicant has proceeded to sell part of the land.
5. I direct that the beneficiaries to sit down and agree on a mode of subdivision of the properties. Mention on 31.07.2018. In the event of disagreement parties to file their respective proposals.

D.S Majanja

Judge

18/6/2018

[Ruling read and delivered in open Court]

D.S Majanja

Judge

18/6/2018