

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

SUCCESSION CAUSE NO. 696 OF 2009

DANIEL KHASIEVERA ANUSU.....DECEASED

AND

TRUFENA MWAVAGA.....APPLICANT

V E R S U S

DAVID KHASIEVERA ANUSU.....RESPONDENT

R U L I N G

On the 25th may, 2017 the court allowed the distribution of the deceased’s property as proposed by the respondent. The applicant in the petition filed a notice of appeal dated 31st May, 2017. On 19th June, 2017 he filed an application under certificate of urgency seeking for stay of execution pending appeal. The application has not been heard to date.

The matter came for mention on 24th July, 2018 when **Mr. Nadwa** for the respondent informed the court that the applicant has since not filed an appeal. Further that the applicant has not served them with any application for stay of execution pending appeal. That there are no orders for stay of execution pending appeal. The advocate asked the court to proceed to sign the certificate of confirmation of grant since there is no appeal filed neither is there stay of execution ordered.

Mr. Arwanda for the applicant conceded that they have not filed the appeal neither have they prosecuted the application for stay pending appeal.

The notice of appeal was filed on 31st May, 2017. It is now 16 months since when the notice was filed. There is no appeal filed. The applicant has not prosecuted the application for stay of execution pending appeal. He has not even served the said application on the advocates for the respondent. The applicant has conducted the matter with a lot of lethargy. There is no plausible reason for the court to delay in signing the certificate of confirmation of grant. The court will thereby proceed to sign the grant as prayed by the advocate for the respondent.

Delivered, dated and signed in open court this 31st day of October, 2018.

J. NJAGI

JUDGE

In the presence of:

.....for applicant

.....for respondent

George.....court assistant

Parties:

Applicant

Respondent