



**IN THE HIGH COURT OF KENYA AT MURANG'A**

**SUCCESSION CAUSE NO 1193 OF 2013**

**IN THE MATTER OF THE ESTATE OF BKN - DECEASED**

**1. P N K.....1<sup>ST</sup> ADMIN/APPLICANT**

**VERSUS**

**2. L W M.....2<sup>ND</sup> ADMIN/PROTESTOR**

**J U D G M E N T**

1. A grant of letters of administration intestate was made herein on 09/10/2014 jointly to **P N K** and **L W M** (respectively the 1<sup>st</sup> and 2<sup>nd</sup> Administrator). They are respectively the father and widow of the Deceased **B K N**.
2. The 1<sup>st</sup> Administrator subsequently applied by **summons dated 24/04/2015** for confirmation of that grant. At paragraph 6 of his supporting affidavit he proposed that the funds in a savings account held by the Deceased and a gratuity due upon his death be shared equally between the two Administrators.
3. The 2<sup>nd</sup> Administrator filed an **affidavit of protest** on 30/06/2015. She was totally opposed to the 1<sup>st</sup> Administrator sharing in the Deceased's estate. She pointed out that the Deceased was survived by his widow (2<sup>nd</sup> Administrator) and a seven-year old daughter, **F A W K (W)**, and that the two are the rightful heirs of the Deceased. In a supplementary affidavit of protest filed on 17/06/2016 the 2<sup>nd</sup> Administrator exhibited the birth certificate of **W**. She was born on 18/11/2008. The Deceased died on 15/08/2013.
4. This judgment concerns the protested summons for confirmation of grant. By consent of the learned counsels for the parties the contested summons for confirmation of grant was heard by way of written submissions. The 2<sup>nd</sup> Administrator's submissions were filed on 31/05/2016 while those of the 1<sup>st</sup> Administrator were filed on 06/09/2016. I have considered the respective submissions of the parties. I have also read the affidavits on record.
5. It is not in dispute that the Deceased died intestate. It is also not in dispute that he was survived by a widow (the 2<sup>nd</sup> Administrator) and a child (**W**). A deceased person's surviving father is not an automatic heir of such deceased if he was survived by a spouse and child (such as the present case). The 1<sup>st</sup> Administrator has not demonstrated why or how he is entitled to share in the estate of the Deceased.
6. In the event I will confirm the grant herein and direct that the net estate of the Deceased (which appears to consist only of some money) shall go absolutely to the 2<sup>nd</sup> Administrator, **L W M**, so that she is able to take care of herself and her child, **F A W K**. It is so ordered. Parties shall bear their own costs of the proceedings. **DATED AND SIGNED AT MURANG'A THIS 16<sup>TH</sup> DAY OF MARCH 2017**

**H P G WAWERU**

**JUDGE**

**DELIVERED AT MURANG'A THIS 24<sup>TH</sup> DAY OF MARCH 2017**