

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT HOMA BAY

MISC. CIVIL CASE. 4 OF 2017

IN THE MATTER OF THE LAW REFORM ACT SECTION 8 AND 9

AND

IN THE MATTER OF THE FAIR ADMINISTRATIVE ACT NO 4 OF 2015

BETWEEN

REPUBLIC.....APPLICANT

CHIEF OF KODERA LOCATION.....1ST RESPONDENT

THE HON. ATTORNEYGENERAL.....2ND RESPONDENT

BARRACK ASINGO OPIYO.....EX-PARTE APPLICANT

RULING

1. By a notice of motion dated 7th April 2017, the ex-Parte applicant prays for an order of mandamus to issue compelling the 1st respondent to perform his duty of writing an introductory letter to the applicant with regard to the estate of one **DANIEL OPIYO MIDIGO** (deceased) to enable the applicant commence a succession cause regarding the deceased's estate.

2. The basis of this application is that he is the son of the late **DANIEL OPIYO MIDIGO** who died on 15th August 1978, and is desirous of filing a succession cause. He made a personal request for the area chief to write him an introductory letter to present to the court but the chief has declined. He has annexed a letter dated 5th December 2015 written by his advocate **MR NYAUKE** advancing such request but so far nothing has materialized.

3. Actually this is a simple matter which in my view does not even require such formality. What I require from the applicant is-

- *his birth certificate to establish the relationship alleged between him and the deceased*
- *name of deceased's wife/wives*

4. Once he presents these documents, then I shall direct that summons do issue to the chief of Koderia location and show cause why the said introductory letter cannot issue.

The matter shall be listed for mention on 17th of July, 2017 for further directions.

Delivered and dated this 21st day of June, 2017 at Homa Bay

H. A. OMONDI

JUDGE