



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
SUCCESSION CAUSE NO 535 OF 2004

PATRICK NG'OLUA M'MUNGANIA.....PETITIONER

Versus

FREDRICK KIMATHI NG'OLUA.....1ST APPLICANT

FRANCIS KIRIMI NTORUKIRI.....2ND APPLICANT

REBECCA CIORUI M'RUKIRI.....3RD APPLICANT

JOSHUA MUTUMA M'MUNGANIA.....4TH APPLICANT

KIURUMWITIKA CIUKI.....5TH APPLICANT

GLADYS KATHUBARU.....6TH APPLICANT

JAMES GITONGA.....7TH APPLICANT

CYPRIANO KABERIA.....8TH APPLICANT

ELIUD GITONGA NTORUKIRI.....9TH APPLICANT

RULING

No Administrators

[1] In the Ruling dated 2nd April 2013, the court ordered, inter alia that:-

“...parties are given two weeks to agree on three administrators who shall be granted letters of administration and seek fresh confirmation of the grant in default of agreement on administrators matter be mentioned before court to appoint the administrators”.

[2] Up to now, parties have not agreed on the persons who shall be appointed administrators of the estate. In effect there is no grant of letters of administration that has been made to any person. There are

no administrators of the estate. This is unsatisfactory state of affairs in a succession cause which makes it impossible for the court to do anything substantial in these proceedings. Grant of letters of administration must be made to a competent person or persons. Again, there is no application for confirmation of grant-of course this is because there are no administrators of the estate. Therefore, all the filings by parties on mode of distribution lack a foot on which to stand; they stand on nothing. Accordingly, I must do first things first; appoint three administrators as earlier ordered by the court. However, I will give the parties one more opportunity, except this time I will not ask them to agree on the administrators because they have failed in other past instances where they were offered the opportunities to do so; instead I will ask the Petitioner and the objectors to file separate lists of three names of persons they each propose that the grant of letters of administration intestate should be made. The lists shall be filed within seven (7) days of today. Nevertheless, that notwithstanding, there is nothing in this order that will prevent the parties from presenting a consent on the agreed administrators. For clarity, should one or more or all of the parties fail to file a list of three names of persons to whom the grant of letters of administration is to be made, the court will fall back to section 66 of the Law of Succession Act and exercise its final discretion as to the persons to whom the grant of letters of administration shall, in the best interests of all concerned, be made. Thereafter, the administrators who shall be appointed by the court shall apply for fresh confirmation within such time as the court will deem to be reasonable. I will thereafter consider the proposals on distribution of the estate within the confirmation application. It is so ordered.

Dated, signed and delivered in open court at Meru this 25th day of January 2016.

F. GIKONYO

JUDGE

In the presence of:

Mr.Kirima advocate for objector

Mr. Gikunda advocate for Omari advocate for the petitioner.

F. GIKONYO

JUDGE