

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

SUCCESSION CAUSE NO. 248 of 2001

IN THE MATTER OF THE ESTATE OF KAMANU WANGEWA (DECEASED)

JUDGMENT

1. There are ongoing proceedings herein concerning distribution of the estate of the deceased.
2. Before those proceedings could be concluded, an application was lodged herein by one of the administrators, Michael Kamanu Wangewa, dated August 2016. It seeks that a date be given by the court for the hearing of an application for contempt of court dated 16th October 2014 and for an order directed against a Land Registrar respecting certain injunctive orders.
3. The said application came up for hearing on 7th September 2016, when counsel for the respondent prayed for leave to file a reply. Leave was granted and it was directed that the court file in respect of HCSC No. 2790 of 2012 be availed, as it was said to be related to the instant cause.
4. When the matter came up on 12th October 2016, the court was invited by counsel for the applicant to give directions on HCSC No. 2790 of 2012 as some of the assets sought to be distributed in that cause were also said to be listed for distribution in the instant cause.
5. I have perused the instant file, as well as the file in HCSC No. 2790 of 2012. The instant cause concerns the estate of Kamanu Wangewa, while HCSC No. 2790 of 2012 is in respect of the estate of the latter's wife, Esther Wanjiru Kamanu. I have noted that there are two assets in HCSC No. 2790 of 2012 that are also listed in the instant cause.
6. There could be several reasons for the cross-listing of assets. However, that alone should not affect prosecution of either cause. If any party strongly feels that there could be prejudice to be suffered by such cross-listing, it should be up to that party to move the court appropriately in the cause concerned.
7. I cannot give any directions in this cause on how HCSC No. 2790 of 2012 is to be prosecuted, for that cause has not been consolidated with the instant cause. In my view the two cannot even be consolidated for they relate to estates of two distinct individuals. If any party feels that one cause ought to be stayed to await the prosecution of the other, then such party is at liberty to move the court appropriately in the proper cause. The same applies where a party feels that certain assets ought to be set aside or temporarily removed from the schedule of the assets to be distributed to await the outcome of proceedings in either cause.
8. I do not wish to prejudge the application dated 3rd August 2016 by giving directions on the application dated 16th October 2014. Let the respondent exercise his right of reply to the application dated 3rd August 2016, then directions will be given on its disposal. Those matters should take their own courses thereafter.
9. The primary mandate of the probate court is distribution of the estate of the deceased. That is what ought to be given priority. The ongoing proceedings are geared to achieve that objective. The said proceedings are scheduled for 6th December 2016. I trust that the parties are readying themselves for the further hearing of the matter, for I shall not entertain any application for adjournment on that date.
10. It is so directed.

DATED, SIGNED and DELIVERED at NAIROBI this 25TH DAY OF NOVEMBER, 2016.

W. MUSYOKA

JUDGE