



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**SUCCESSION CAUSE NUMBER 782 OF 2009**  
**IN THE ESTATE OF THE ESTATE OF BEDAN NJOROGE NDUATI**  
**(DECEASED)**

**RULING**

The Applicant sought directions that the matter contains a Petition for grant of probate with will annexed filed on 1<sup>st</sup> April, 2009. Thereafter there were numerous applications filed by various parties that hinged on the estate of the deceased.

Of importance, the Court file was lost and/or misplaced for about 2 years. On 11<sup>th</sup> September, 2013 the Applicant Lucy Wanjiru Njoroge daughter of the deceased through Counsel filed an application to reconstruct the Court file. At paragraph 17, of the supporting affidavit, the Applicant listed all applications filed and pleadings filed. Thereafter, the Court file was found.

Today it has been brought to the attention of this Court that, a full grant under **Section 67 of the Law of Succession Act Cap 160** has not been issued. The Court record confirms this fact; except for the limited grant for letters of administration ad litem issued by Hon. Justice L. Kimaru on 5<sup>th</sup> February, 2014 to the 3 widows of the deceased jointly to pursue litigation on behalf of the deceased's estate.

There is an application filed on 27<sup>th</sup> October, 2015 for this Court to issue directions on the way forward (erroneously called summons for confirmation of grant and there is no grant issued). In light of the information in the Court file. This Court directs as follows;

1. According to the Supporting Affidavit annexed to the application of 27<sup>th</sup> October, 2015 all the beneficiaries of the estate are listed from the 3 houses. Since it is deposed that all 3 widows are now advanced in age, therefore they cannot exercise their right under **Section 66 of the Law of Succession Act Cap 160**; the members of each house of the family shall appoint and/or nominate their representative. Therefore shall be one representative from House 1, House 2 there is only Jane Wanjiku Njoroge who is daughter to Rachel Njeri Njoroge 2<sup>nd</sup> widow of the deceased and she will be Co executor. One representative from the 3<sup>rd</sup> house to be appointed/nominated by the said house.
2. Then all 3 Applicants shall jointly be appointed as executors of the will of the deceased of 19<sup>th</sup> September, 2005 to prepare for gazettelement of the petition for grant of probate with will annexed.
3. This Court has taken into account that the will of the deceased appointed Ezekiel Ndichu Kimatu

Wanjama (Advocate) and Joseph Njoroge Kibunja as executors.

There is renunciation of the right to probate of written will filed by Mr. Wanjama Advocate on 1<sup>st</sup> April, 2009.

It is intimated that Joseph Njoroge Kibunja is deceased. Hence the appointment of new executors of the estate of the deceased.

4. The nominee from each house shall be availed to Court on a date to be agreed on by the parties on 23<sup>rd</sup> November, 2016 at 12.00 noon.

5. In default the matter to determine the administrators/executors of the estate shall be heard on or date to be obtained by the parties in the Registry.

6. Further mention shall be on 6<sup>th</sup> February, 2007.

**DELIVERED, SIGNED & DATED AT NAIROBI THIS 23<sup>RD</sup> DAY OF NOVEMBER, 2016**

**M. W. MUIGAI**

**JUDGE**

**In presence of:-**

Mrs.Gakeri holding brief for Ms. Thongori