



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**CIVIL MISC. APPLICATION NO. 27 OF 2011**

**IN THE MATTER OF MENTAL HEALTH ACT (CAP 248) LAWS OF KENYA**

**AND**

**IN THE MATTER OF APPOINTING RAPHAEL MUINDE MATATA AS THE MANAGER OF  
THE ESTATE OF JOEL MATATA**

**AND**

**IN THE MATTER OF SETING ASIDE/VACATING ORDERS ISSUED BY THE  
HONOURABLE COURT ON 22/5/2012**

**RAPHAEL MUINDE MATATA.....EX-PARTE APPLICANT**

**R U L I N G**

1. On the 22<sup>nd</sup> May, 2012 Raphael Muinde Matate was appointed as the Manager of the Estate of Joel Matata under Section 33 of the Mental Health Act.

2. By way of Notice of Motion dated 19<sup>th</sup> June, 2015 the Ex-parte Applicant, seeks orders as follows:

- *That the order dated 22<sup>nd</sup> May, 2012 be set aside and/or vacated with any subsequent order(s) as concerns the execution process of the said order(s) or in any other terms that may be found fair and just.*
- *That Raphael Muinde Matata be removed as a Manager of the Estate of Joel Matata.*
- *That the Honourable court do grant any other further directions or terms as it may find fair and just in the circumstances.*

3. The application is premised on grounds that the Applicant was appointed to manage the Estate when his father Joel Matata was senile and/or of unsound mind. The said Joel Matata is now deceased. A grant of letters of administration intestate has been confirmed and the Applicant needs to distribute the Estate in accordance with the confirmed grant. This can only be done if the court sets aside the order of the court and the orders sought are in the interest of justice.

4. The Ex-parte Applicant swore an affidavit in support of the application where he deponed *inter alia* that in conjunction with other beneficiaries of the Estate of the deceased they filed a **Succession Cause No. 47 of 2014** and he is the sole administrator of the Estate and it is important for the Estate to be administered and distributed.

5. Looking at the order dated 22<sup>nd</sup> May, 2012 by **Dulu J**, the Ex-parte Applicant was indeed appointed to manage the Estate of **Joel Matata**, now deceased. The second part of the order reads thus:

***“The Petitioner will give an account to the court and the Public Trustee within six (6) months, and every following year on the assets and liabilities of the subject Estate as required under Section 33 of the Mental Health Act, as long as he remains such a Manager as hereby appointed.”***

6. I have not seen any statement of account of the Estate that the Ex-parte Applicant has managed since the year 2012 attached. It is imperative for him to comply with the court order prior to being discharged.

7. It is so ordered.

**DATED, SIGNED and DELIVERED at MACHAKOS this 26<sup>TH</sup> day of JUNE, 2015.**

**L. N. MUTENDE**

**JUDGE**