



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

SUCCESSION CASE NO. 199 OF 1995

GILBERT KIPTOO MURGOR APPLICANT

VERSUS

PETER KIPLAGAT MURGOR 1ST RESPONDENT

HENRY K. MURGOR 2ND RESPONDENT

AUSTIN K. MURGOR 3RD RESPONDENT

GEORGE K.MURGOR 4TH RESPONDENT

RULING

1. What falls for determination by this court is the Chamber Summons application dated 16th December, 2013 in which the applicant *Gilbert Kiptoo Murgor* seeks the following orders:-
 - i. That the Administrators herein be restrained from exercising any or all powers over the Estate of the deceased pending confirmation of the grant with a comprehensive and complete schedule of distribution.
 - ii. That the Administrators provide a comprehensive account for the administration of the Estate from the date of their respective appointments to the present date.
 - iii. That the Administrator *Peter Kiplagat Murgor* be replaced by the applicant, or any other member of the household of the late *Christine Chebor*.
 - iv. The Administrators be examined by the Honourable court forthwith as to their financial and medical health to determine their capability to continue with the Administration of the Estate.
 - v. That the Administrators do provide the Honourable court with details, and copies of all title deeds, in respect of all land belonging to the Estate dating back to the date of the death of the deceased.
 - vi. That the Administrators be restrained from any further illegal subdivisions, excisions, formal and informal leases in respect of land belonging to the estate.
 - vii. That the Administrators be restrained from any further charcoal burning or sand harvesting from the Chebinyiny property, or permitting any beneficiary or third parties to engage in such activities.
 - viii. That *Mrs. Elizabeth Cheptum Komen* and *Mrs. Bernadette Chelagat Gidii* be restrained from intermeddling with, or otherwise managing the property of the estate.
2. The application is premised on grounds stated on its face the main ones being that the grant of letters of administration herein was obtained fraudulently by the making of false statements and concealment of material facts; that the proceedings to obtain the grant were defective in substance; that the administrators have failed to proceed diligently with the administration of the Estate as a

result of which the coffee plantation within Kaptabei Estate has fallen into ruin with beneficiaries leasing out portions of it for maize and beans planting while the main house in the Estate has been neglected and is in a state of total disrepair; that the farm in Chebinyiny is being wasted through illegal charcoal burning and sand harvesting; that the said farm has reduced in size due to illegal excision to *John Murgor* and *Mrs. Elizabeth Cheptum Komen* while a plot in Burnt Forest belonging to the Estate has been grabbed.

3. The applicant also contends that it was highly prejudicial to appoint *Peter Kiplagat Murgor*, a grandson to the deceased, to replace his father *John Murgor* upon his death when *Austin Murgor*, his direct brother remained an Administrator; that it is only just and equitable that the applicant or one of his siblings be appointed Administrator to ensure that the interests of the household of the late *Christine Chebor* were taken care of.
4. The application is supported by two very lengthy and detailed affidavits which spell out the applicant's case against the respondents. These are, the supporting affidavit sworn by the applicant on 16th December, 2013 and his further affidavit sworn on 5th February, 2015.
5. In his two affidavits, the applicant expounded on the grounds founding the summons as summarized above. He in addition deposed that the deceased, his father was polygamous; that he had four wives namely *Selinah Murgor*, *Christine Chebor*; *Hannah Murgor* and *Dinah Murgor*. His mother *Christine Chebor* had five other children namely *Josphine C. Murgor* deceased; *Philip K. Murgor*, *Margaret C. Murgor*; *Albert K. Murgor* and *Robert K. Murgor* (deceased).

He further deposed that prior to his death, the deceased had established separate matrimonial homes for each of his four wives; that *Selinah* had her matrimonial home at Rochim but later settled in Kapkoi farm within Elgeyo Marakwet District, *Christine Chebor* had her matrimonial home at Kaptabei Estate in Uasin Gishu District, *Dinah Murgor's* home was at Chebinyiny farm in Elgeyo Marakwet District while *Hannah Murgor* lived in Mosoriot in Nandi District.

6. In summary, it is the applicant's case that the administrators colluded with his step mothers *Selinah Murgor* and *Dinah Murgor* through a purported consent of making of a grant dated 22nd May, 1995 to deny him and his siblings their inheritance by deliberately omitting their names and that of their deceased mother *Christine Chebor* from the list of beneficiaries as children and wife of the deceased respectively in their petition for grant of representation of the deceased's Estate; that as deposed by the administrators in the affidavit sworn on 22nd May 1995, in addition to machinery and vehicles listed at paragraph 6(f) to (k), the deceased's Estate comprised of the following assets;

- i. Land at Kaptabee (Kaptabei Estate)
- ii. Land at Kapkoi –Keiyo District
- iii. Farm at Chebinyiny
- iv. Plot in Iten
- v. Plot at Kamariny.

7. The applicant further contended that the administrators have mismanaged the Estate and that their lack of diligence has led to its massive wastage and intermeddling by two of the beneficiaries namely *Mrs. Elizabeth Komen* and *Mrs. Bernadatte Gidii* as enumerated in the grounds supporting the application; that two of the administrators suffer from severe alcoholism and one of them is unemployed and is heavily in debt; that in order to preserve the estate and prevent further wastage, the court should intervene in the interest of justice and grant the orders sought.
8. It is also the applicant's case that in 1972 despite opposition by the deceased, the late *Christine Chebor* purchased property through loans acquired from financial institutions and from her own savings which she named Kalyet farm; that in order to safeguard the security of the property and ensure that it was not invaded by his co-wife *Selina Murgor* and her children in the pretext that it belonged to the deceased, she changed her name from *Christine Chebor Murgor* to her maiden name of *Christine Chebor*; that in the premises, Kalyet farm was her personal property and it has never formed part of the deceased's Estate.
9. The application is opposed by the respondents through a comprehensive replying affidavit sworn

on their behalf by the 4th respondent *George Murgor*. The 4th respondent deposed that the reliefs sought by the applicant cannot be granted as the applicant has failed to furnish the court with evidence to prove the alleged lack of diligence on the part of the administrators or evidence of intermeddling with the Estate. The respondents also denied that there has been any excision or subdivision or disposal of part of Chebinyiny farm contending that the parcels of land allegedly excised from the farm by the late *John Murgor* and *Elizabeth Komen* were their personal properties which did not form part of the deceased's Estate. He further denied the allegations of fraud made against the administrators and averred that the same had not been substantiated by any evidence.

10. It is the respondent's case that during his life time, the deceased took care of his families and assigned each wife a house to live with her children as follows:-

Kaptabei Estate measuring about 240 acres was to be occupied by *Selinah Murgor*; *Dinah Murgor* and *Hannah Chebet* and their children while the Kalyet farm measuring about 2,000 acres was to be occupied by *Christine Chebor* with her six children.

11. The respondent's denied the applicant's claim that Kalyet farm was individually purchased by the late *Christine Chebor* and that it did not comprise part of the deceased's Estate. They maintained that the property was bought by the deceased using a financial facility from the Agricultural Finance Corporation and that it was part of his Estate; that the applicant's mother had the land transferred into her name in dubious circumstances without the knowledge of the deceased forcing him to register a caveat over the property; that the applicant and his siblings irregularly took out independent grant of letters of administration in respect of the said land after the demise of *Christine Chebor* without involving the other beneficiaries.

12. It was further deposed on behalf of the respondents that the administrators have done everything in their power to identify and collect all the property belonging to the deceased; that they only recently discovered that prior to his death, the deceased had acquired some property in Burnt Forest and effort is currently being made to recover the same; that the appointment of *Peter Murgor* as a co-administrator in place of the late *John Murgor* was done following agreement by all the family members; that Keiyo customary law dictated that *John Murgor* or a member of this household be involved in the administration of the Estate being the first born son of the deceased and that upon his demise he had to be replaced by his first born son *Peter Murgor*.

The respondent's in conclusion claimed that the applicant has completely failed to adduce evidence which would justify the grant of any of the orders sought. They invited the court to dismiss the application with costs.

13. In response to the claims made by the respondents in the Replying affidavit, the applicant filed a further affidavit on 5th February, 2015. He contended that the respondents had admitted in the Replying affidavit and in purported minutes of family meetings marked GM/4 that the late *Christine Chebor* was the deceased's wife and that all her children were surviving at the time of the deceased's death; that there was evidence of intermeddling with the Estate by *Elizabeth Komen* and the late *John Murgor* in annexures marked as GM/11 a & b and GM/5 (a & b) showing that title deeds for portions of land in Chebinyiny farm had been fraudulently processed in their names without the sanction of the court. He also annexed photographic evidence marked as GKM 13 -21 showing the nature of the alleged waste involving the Chebinyiny farm and exhs 42(a) – (k) showing alleged mismanagement and waste at Kaptabee farm.

14. The applicant in addition averred that the respondents are now engaged in a fraudulent attempt to defraud the Estate of the late *Christine Chebor* and its beneficiaries of land known as LR 8366/1 and LR No. 8912 (Kalyet farm) by claiming that it belonged to the deceased's Estate and falsifying entries in title documents to reflect that position while as the land was the property of the Estate of the late *Christine Chebor*; that the deceased who died about 15 months after *Christine's* demise did not in his lifetime claim the said land nor did the respondents make any objection to the petition for letters of administration to the Estate of *Christine Chebor* or lay any claim to her Estate; that the Estate of the late *Christine Chebor* had no connection whatsoever with

the Estate of the deceased and that the burden of proving that Kalyet farm belonged to the deceased's estate rested squarely upon the respondents which burden could not be discharged by the presentation of forged documents to the court.

15. Though the parties through their advocates on record had agreed to file written submissions which were to be highlighted at a later date, only the applicant filed written submissions on 4th May, 2015. No submissions were filed on behalf of the respondents. However, on 27th July, 2015 learned counsel for the parties made oral submissions buttressing their clients respective positions with regard to the application.

Learned counsel *Mr. Philip Murgor* represented the applicant while *Mr. Kenei* held brief for *Mr. Gumbo* for the respondents. In their submissions, both learned counsel made their arguments on the grounds founding the application and expounded on the depositions in the lengthy affidavits filed by the parties.

16. I have carefully considered the application, the affidavits filed by the parties as well as the written and oral submissions made by their advocates.

Having done so, I find that it is not disputed that the deceased died intestate on 23rd April, 1995 and therefore, the ***Law of Succession Act*** Chapter 160 of the Laws of Kenya applies to the administration of his Estate. It is also not disputed that the deceased was polygamous and that prior to his death, he had married four wives namely *Selinah Murgor; Christine Chebor, Hannah Murgor and Dinah Murgor*. It is also common ground that a grant of letters of representation to the Estate was granted to four of his sons namely *John Murgor; Henry K. Murgor, Austin K. Murgor and George K. Murgor* in 1995 or thereabouts; that *John K. Murgor* subsequently passed away and he was substituted by his son *Peter K. Murgor*. There is also no dispute that prior to the death of *John Murgor*, there was a partial confirmation of the grant on 13th July, 1998 with respect to the movable properties of the Estate together with some livestock which were distributed to the children and two wives of the deceased namely *Salinah and Dinah Murgor*.

It is also not disputed that the late *Christine Chebor* and her children were not included in the list of beneficiaries to the Estate and they were therefore left out in the aforesaid partial distribution of the Estate.

17. Having outlined the undisputed facts, I now wish to set out the key issues which in my view arise for my determination.

They are as follows:-

- i. Whether the administrators should be restrained from exercising any power over the deceased's Estate pending confirmation of the grant.
- ii. Whether the administrators and other named beneficiaries should be restrained from further subdivisions or illegal dealings in the Estate or intermeddling with its assets.
- iii. Whether one of the administrators *Peter Kiplagat Murgor* should be removed and replaced by the applicant or any other member of the household of the late *Christine Chebor*.
- iv. Whether the administrators should be examined by the court as to their financial and medical health to determine their capability to continue serving as administrators of the Estate.
- v. Whether the administrators should be ordered to provide accounts for their administration of the Estate and to furnish the court with copies of title deeds of all land belonging to the Estate from the date of death of the deceased.
- vi. What order should be made on costs?

18. Turning to the first issue, it is the applicant's case that the administrators have allowed the Estate

to be wasted through gross mismanagement, neglect and lack of vigilance which has given an opportunity to some of the beneficiaries to intermeddle with the Estate. The applicant contends that there has been illegal excision and subdivision of some of the land belonging to the Estate. He availed photographic evidence to prove the extent of the waste complained about through annexures attached to the further affidavit.

It is further claimed that the administrator's lack of diligence has been exemplified by the fact that for the last 20 years, no steps have been taken to distribute the Estate to its beneficiaries.

The alleged lack of vigilance and diligence in the management of the estate appears to be the basis for the applicant's prayer that the administrators be temporarily restrained from exercising any of their powers pending confirmation of the grant.

The respondents have opposed this prayer arguing that if it is allowed, there will be nobody to take care of the Estate and it will thus go to ruin.

19. The powers and duties of administrators of Estates are provided for in **Section 82** and **Section 83** of the **Law of Succession Act** (the Act). In my opinion, these two provisions of the law should be read together as it is from the power bestowed on the administrators by virtue of their appointment by the court that they get authority to exercise their duties as mandated by **Section 83**. A reading of **Section 83** shows that the duties of administrators include gathering all the assets belonging to the Estate; paying out its debts and distributing the Estate to its rightful beneficiaries.
20. It is not disputed that the administrators in this case were lawfully appointed by this court for the purpose of managing the Estate of the deceased. There is therefore no doubt that restraining them from exercising the powers of their office would in essence defeat the purpose for which they were appointed. In addition, it would leave a vacuum in the administration of the Estate and this may expose the assets of the Estate to further degradation or wastage which would not be in the interest of the beneficiaries. Besides, the effect of such an order would be to stop the administrators from carrying out their duties meaning that there will be nobody to prepare and file a summons for confirmation of the grant to facilitate final distribution of the Estate.
21. It is unfortunate that in this case, there has been a long and inordinate delay of about 20 years in having any steps taken to have the grant confirmed. This is by any standard a very long time to have an Estate hanging in limbo without being distributed to its rightful beneficiaries. The law frowns upon delays in the distribution of Estates and that is why it provides at **Section 76** of the Act that even a delay of one year in having a grant confirmed can lead to its revocation.

If there is indeed maladministration and ineffective management of the Estate, this is one of the reasons which would mitigate against the grant of the orders sought because rather than suspending the administrators from exercising their powers and duties under the law, they should be directed to move with speed to apply for confirmation of the grant and to distribute the Estate as soon as possible so that each beneficiary can get his/her rightful share and move on with his or her life.

22. Lastly on this point, if the applicant honestly believed or was certain that there was gross mismanagement, neglect and lack of vigilance in the administration of the Estate, he ought to have filed a summons for revocation of the grant instead of applying for orders restraining the respondents from carrying out the powers and duties bestowed on them by the law.

I am therefore not satisfied that there is any merit in the said prayer.

23. Regarding the issue whether the administrators or the two beneficiaries accused of intermeddling with the Estate should be restrained from further illegal dealings related to subdivisions, excision or leasing of the land comprising the Estate or intermeddling with the assets in the Estate, I wish to point out at the outset that administrators of an Estate are mandated by the law to step into the shoes of a deceased person and to do everything the deceased person would have done except disposing off his immovable property prior to confirmation of the grant of representation.

Section 82 (b) (ii) of the Act expressly provides that administrators do not have power to sell immovable property of an Estate before confirmation of a grant. I therefore agree with both learned counsel's submissions that administrators cannot be accused of intermeddling with assets comprising the estate. But they can be accused of illegally dealing with the Estate if there is evidence to prove that they had sold or otherwise disposed off land forming part of the Estate before the grant was confirmed.

24. Intermeddling with an Estate is a criminal offence created by **Section 45** of the Act. The offence is committed by any person including beneficiaries of an Estate who interfere or deal with any asset of the Estate without the consent or authority of the administrators.

In this case, it has been alleged by the applicant that the administrators had caused subdivision and excision of land at Chebinyiny and had it registered in the names of the late *John Murgor* and *Mrs. Elizabeth Komen* after the death of the deceased. These allegations were vehemently denied by the respondents who maintained that the parcels of land in question were privately acquired by the two named persons and they did not form part of the Estate.

25. It has also been claimed that due to the alleged inability of the administrators, *Mrs. Elizabeth Komen* had taken over their role in the administration of the Estate which amounted to intermeddling. This later claim was however not substantiated by any evidence since the document the applicant deposed he had availed to the court to prove this allegation marked GM/4 is not part of the annexures attached to the further affidavit.

26. Given that prima facie there is no clear evidence that the two parcels of land registered in the names of the late *John Murgor* and *Elizabeth Komen* had been excised from the Estate and no evidence was adduced to prove any intermeddling with the estate by the said *Elizabeth Komen* and *Mr. Bernadette Gidii*, I find that the applicant has not established any basis upon which I can make orders restraining the administrators or the two beneficiaries as sought.

27. That said, I wish to state that it is the duty of the court to ensure that the Estate of a deceased person is well managed and preserved for the benefit of its beneficiaries. Consequently, even if the allegations of illegal dealing with the Estate or intermeddling by some of the beneficiaries have not been proved in this case, I take the view that in order to maintain the status quo currently obtaining with regard to the land comprising the Estate in order to preserve it and thus safeguard the interests of all the beneficiaries including the respondents, the court can invoke its inherent powers to issue orders restraining the administrators from subdividing, selling or transferring any parcel of land forming part of the Estate pending its distribution. Accordingly, under **Section 47** of the Act and **Rule 73** of the **Probate and Administration Rules**, I hereby restrain the administrators from carrying out any subdivision, sale or transfer of any land comprising the Estate pending its distribution.

28. Turning now to the prayer that one of the administrators *Peter Kiplagat Murgor* should be removed and be replaced by the applicant or any of his siblings, it is the applicant's contention that since the deceased had four wives and the law allows for appointment of only four administrators to represent an Estate, the household of his mother the late *Christine Chebor* should be represented in the management of the deceased's Estate; that as the household of *Selinah Murgor* is represented by two administrators namely *Peter Murgor* and *Austin K. Murgor*, *Peter Murgor* who is the deceased's grandson should be removed and be replaced by him or any one of his siblings.

29. This prayer was strongly opposed by the respondents with learned counsel *Mr. Kenei* submitting that *Peter Murgor* was appointed as co-administrator of the Estate through a lawful court process and no evidence has been adduced of incompetence, or inability to function as an administrator or any wrong doing on his part; that in the absence of such evidence, he ought not to be removed.

30. As noted earlier, *Peter Murgor* came into the picture when he was substituted in place of his late father *John Murgor*. This means that even by the time the petition for grant of letters of administration was made, two sons from the household of *Selinah Murgor* had applied to be appointed co-administrators of the Estate while no administrator was proposed from the household of the late *Christine Chebor*. It is clear from the deposition in paragraph 55 of the applicant's supporting affidavit that he was aware of the filing of the petition for grant of representation by the

administrators but he chose not to file any objection or cross petition seeking to be appointed as a co-administrator of the Estate.

The application to have him or any of his siblings included in the administration of the Estate is being made very late in the day about 20 years later when priority ought to be given to fast tracking the winding up of the Estate by facilitating its distribution as opposed to changing administrators which might have the effect of further slowing down the process of distribution.

31. Be that as it may, one of the ways in which an administrator can be removed from office is by having the grant in which he was appointed revoked or by proving that he is no longer qualified to function as an administrator. **Section 56** of the Act provides that for one to qualify to be appointed as an administrator, he should not be a minor or be of unsound mind or be a bankrupt. It then logically follows that if it is proved that any of these qualifying factors have ceased to apply to an administrator, such an administrator would have his appointment revoked. In this case, no such evidence has been adduced in respect of *Peter Murgor* and the application does not seek revocation of the grant in which he had been appointed. In addition, the applicant has not tabled any evidence to show that he has since his appointment become incompetent or that he is guilty of any wrong doing or conduct that is prejudicial to the interests of the beneficiaries.

For the foregoing reasons, I decline the invitation to remove *Peter Murgor* from being an administrator to the deceased's Estate and have him replaced by the applicant or any of his siblings as prayed.

32. I now wish to turn to the applicant's complaint that the administrators deliberately omitted him, his siblings and his late mother from the list of beneficiaries when applying for grant of representation to the deceased's Estate. As noted earlier, this claim was not disputed by the respondents. The respondents claimed that the household of the late *Christine Chebor* was omitted from the list of beneficiaries because at the time of the deceased's death, he had been separated from *Christine Chebor* and further that in his life time, he had already provided for her by settling her and her children in Kalyet farm. The applicant has denied this claim by asserting that his mother individually bought the land known as Kalyet farm with her own savings and funds borrowed from financial institutions and that it did not form part of the deceased's Estate.

33. The explanation by the respondents concerning why the applicant and members of his household were excluded from the list of beneficiaries in the petition is legally untenable because **Section 51** of the Act requires that applicants for grant of letters of administration must include in their petition *inter alia*, the names and addresses of all surviving spouses and children of the deceased irrespective of whether or not they had previously benefitted from the Estate. In this case, it is not disputed that the late *Christine Chebor* was one of the wives of the deceased and that the applicant and his siblings were children of the deceased.

34. It is clear from the affidavit evidence presented to the court by the applicant that the late *Christine Chebor* predeceased the deceased and therefore she was not one of his surviving spouses by the time the petition for grant of representation to his Estate was filed. It was not therefore mandatory for the respondents to include her name in the list of the beneficiaries of the Estate. However, the law required them to list all the children of the deceased in the list of his beneficiaries including the children of the late *Christine Chebor* whether they had previously benefitted from the Estate in the deceased's lifetime or not. The law is that any gifts *intervivos* given to any beneficiary can only be taken into account during distribution of the Estate.

In view of the foregoing, it is my opinion that whether Kalyet farm forms part of the deceased's Estate as contended by the respondents or was the late *Christine Cheboi's* personal property as alleged by the applicant is a matter which can only be determined at the confirmation stage where parties shall be at liberty to adduce evidence in that regard.

35. The applicant also complained that land comprising the Estate was not properly described in the petition for grant of representation. I have looked at the said petition and I entirely agree with the applicant on this point.

This being a court of justice, i am of the considered opinion that this court in the exercise of its inherent powers and in the spirit of administering substantive justice can correct the anomalies in the petition filed by the administrators which I proceed to do by directing that the respondents should compile, file and serve within the next 90 days an amended P&A 5 Form listing all the spouses and children that survived the deceased including the applicant and his siblings; the liabilities accruing to the Estate and a true and full inventory of all the undistributed assets of the deceased's Estate attaching copies of their title documents including resultant titles of subdivisions made from the Estate if any.

36. The applicant had also urged the court to examine the administrators as to their financial and medical health in order to determine whether they are suitable to continue being administrators of the Estate. The applicant has claimed that two of the administrators suffer from severe alcoholism while another one is unemployed and is being pursued by numerous creditors. No evidence was however availed to the court to prove any of the above allegations.

There is therefore no basis upon which i can summon the administrators for examination as to their suitability to continue serving as administrators of the deceased's Estate.

37. Lastly, on the prayer that the administrators be ordered to provide accounts, it is common ground that the administrators except *Peter Murgor* were appointed about 20 years ago and they have been involved in the management of the Estate for this long without rendering any account of their administration to the court. Under **Section 83(h)** of the Act, the court either of its own motion or upon an application by an interested party to the Estate can order an administrator to produce a full and accurate account of all dealings done in the administration of an Estate from the date of his appointment to the date of the account. The administrators in this case appear to have gone to sleep soon after the grant was partially confirmed and in my view, this is a suitable case in which the court should order the filing of accounts to shed light on how the administrators have managed the Estate from the date they were appointed.

38. In the end, in the interests of justice, i now make the following orders:-

- i). That in order to preserve the Estate, the administrators are hereby restrained from subdividing, selling or transferring any land comprising the Estate of the deceased pending its distribution.
- ii). That the administrators should compile and file an amended P&A 5 Form in which they should list all the spouses and children who survived the deceased including the applicant and his siblings; the liabilities accruing to the Estate and a true and full inventory of all the undistributed assets of the Estate attaching copies of their title documents.
- iii). That the administrators shall file a true and just account of their administration of the Estate from the date they were appointed to the date of its filing.
- iv). Order No. (ii) and (iii) should be complied with within a period of 90 days from today.
- v). That in order to fast track and facilitate the distribution of the Estate which is long overdue, the administrators and all the beneficiaries shall negotiate for agreement on the mode of distribution of the Estate within the next 90 days. But whether or not an agreement is reached, the administrators should file and serve a summons for confirmation of the grant within the next 120 days from the date of this ruling.
- vi). This cause will be mentioned on 29th February, 2016 for the court to confirm compliance and for further orders.

vii). On costs, this being a succession dispute involving members of one family, the order that best commends itself to me is that each party shall bear his own costs.

It is so ordered.

C.W. GITHUA

JUDGE

DATED, SIGNED and DELIVERED at **ELDORET** this 29th Day Of October 2015

In the presence of:-

Mr. Murgor for the Applicant

Mr. Kenei for the Respondents

The Applicant and 4th Respondent also present

Mr. Lesinge Court clerk