



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 18 OF 1968**

**IN THE MATTER OF THE ESTATE OF JECKONIA SIJENJE (DECEASED)**

**AND**

**IN THE MATTER OF AN APPLICATION BY MAURICE J. SIJENJE.....APPLICANT**

**R U L I N G**

The applicant by the chamber summons dated 22-11-2013 prays among others that the respondent be stopped from meddling with the estate properties namely Kisumu Municipality Block 5/248 and 253 in particular collecting the rent from the premises situate therein.

The other prayer is that the rent collected be put in the account of the firm of Bruce Odeny & Co. Advocates.

The affidavit in support states that the respondent is not a beneficiary to the estate having been born after the deceased had died and therefore the grant he is holding ought to be revoked. Infact, there is a pending application for the revocation of the said grant.

The respondent has filed a replying affidavit sworn on 17-1-2014 together with those of Esther Chelagat and Henry Tulo. In support. They have collectively argued that the respondent is the biological son of the deceased contrary to the applicant's contention.

The issue of eligibility or otherwise of the respondent being the deceaseds son and therefore a beneficiary for now is not an issue. There is an application for the annulment of grant dated 1-10-2013 which is yet to be canvassed. I shall in the premises not deal with that question for now.

The issue that concerns this application is the management of the rental properties situate in the above named properties. From the annexures to the respondent's affidavit it is apparently clear that both parties in this matter have somewhat enjoyed benefits from the properties. Both recognised that they have equal interest in the properties. However they seemed to have disagreed on the management of the same.

The respondent on the other hand has no problem with the opening of a joint account where the rent can be deposited by the tenants.

Taking into consideration the issues herein and having read the parties written submissions and while awaiting the prosecution of the objection proceedings and for the preservation of the estate I do make the following orders:

- 1) That a joint account be opened in the names of the firm of Bruce Odeny & Co. Advocates and M/S Mwamu & Co. Advocates where all the monthly rents shall be deposited.**
- 2) An estate agent be appointed by the parties to manage the rental premises.**
- 3) Upon collecting the rent the said estate agent should deposit the cheque to the account opened in (1) above where the said counsels on record shall release the amount collected to their respective clients appropriately.**
- 4) Parties be at liberty to apply.**

**5) Costs in the cause.**

**Dated, signed and delivered at Kisumu this 24th day of February, 2014.**

**H.K. CHEMITEI  
JUDGE**