

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

SUCCESSION CAUSE NO. 1129 OF 2006

IN THE MATTER OF THE ESTATE OF CHARLES CHEMIMOI KIMURGOR – (DECEASED)

RULING

1. The application dated 29th November 2013 seeks conservatory orders against Ibrahim Hussein Kimurgor. It also seeks orders that all pending applications in the matter be lumped together and be heard on a day- to-day basis. Alternatively, that the court do appoint any of the beneficiaries co-administrators with the petitioner herein.
2. The application is founded on the grounds set out on the face of the application as well as the facts deposed in the affidavit of the applicant Helen Cheron Kimurgor. Essentially, the respondent, the said Ibrahim Hussein Kimurgor, is the biological son of the applicant and a step son of the deceased. He lives abroad. At the time of the filing of the application, he had just come back to the country. He is accused of engaging in acts of destruction at the applicants' homestead where he has taken up residence. He is said to be in bad terms with the applicant as well as his siblings. He said misconduct is well documented in the affidavit in support of the application.
3. The matter was placed before me on 9th December 2013, under a certificate of urgency dated 4th December 2013. I directed the applicant to call all the parties affected and come back for hearing on 10th December 2013 at 2.30P.M. On 10th December 2013, Mr. Nyamunga appeared for the applicant, Mr. Munyola held brief for Miss. Yano for the respondent, while Mr. Katwa Kigeni appeared for the other children of the deceased. The parties addressed me on the matter. No papers were filed in reply to the application. I reserved my ruling.
4. Mr. Katwa supported the application. He proposed the applicant, but as she so signed, he suggested that she should be assessed by others. He took the view that the respondent was not suitable given that he was suspicious of the applicant and his sisters. Mr. Nyamunga was of similar opinion. He suggested that the applicant should be assisted by one biological daughter of the deceased and one daughter of the deceased. Mr. Munyoka took the view that the applicant should be appointed administration but the sisters of the respondent.
5. The applicant and the respondent both personally addressed the court. She explained her problem with the respondent, and indicated that he was not a person that she could work and live with. The respondent on the other hand accused the applicant and his sisters of conspiring against him.
6. There is clear consensus that an administrator be appointed to take charge of the estate of the deceased. There is unanimity about the appointment of the applicant, Hellen Cheron Kimurgor. It is suggested by the majority that she should be assisted, given her age, by other persons. No serious objections have been raised to these proposals.
7. I have taken note of the bad blood between the applicant and the respondent, as well as that between the respondent and his sisters. I have also noted that that the respondent is resident abroad. The estate of the deceased comprises of assets in Kenya. It would be prudent to have a resident administrator.
8. Taking everything into account, I hereby appoint Hellen Cheron Kimurgor, Caroline Chebet Murgor and Matilda Chemeli Kimurgor administrators of the estate of Charles Chemimoi Kimurgor. A grant of letters of administration intestate shall issue to them accordingly. In the

meantime, the orders made on 10th December 2013 barring the respondent, Ibrahim Hussein Murgor, from the matrimonial home of the applicant, Hellen Cheron Murgor, shall remain in force until further orders by this court.

DATED, SIGNED and DELIVERED at NAIROBI this 23rd DAY OF May 2014.

W. MUSYOKA

JUDGE

In the presence of Mr. Nyamweya advocate for the applicant.

In the presence of Ms. Kaitany advocate for the respondent.