

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

SUCCESSION CAUSE NO. 592 OF 2013

INT EH MATER OF THE ESTATE OF RHODA INGASIANI KIDIGA – DECEASED

BETWEEN

FRANCIS KIDIGA PETITIONER

AND

ZIPPORAH LUKALO INTERESTED PARTY

AND

JAMES KIDIGA

MORRIS ANG'ANG'A KIDIGA..... RESPONDENTS

LYDON KIDIGA

MUDETE TEA FACTORY LIMITED.

RULING

Before me is a Summons dated 20th January 2014. It was filed under **rule 49** of the **Probate and Administration Rules** of the **Law of Succession Act (Cap. 160)**. It is an application for injunctive or restraining orders against interference or wasting of the land assets of the deceased by the respondents. It also seeks that the 4th respondent be restrained from paying out tea proceeds. It further seeks that the 2nd respondent be made to account for the proceeds received by him from the deceased's estate as held by the 4th respondent. It also seeks that the police at Cheptulu Patrol Base and Mudete Police station enforce the orders, if granted. That costs be provided for.

The application was filed by K. N. Wesutsa & Company advocates under Certificate of Urgency. Though the application is said to have been served, no response was filed by the respondents. On the hearing of date, none of the respondents appeared in court. Mr. Kundu learned counsel for the applicant urged that the court grants the orders sought.

This application is not opposed. The court has already granted interim orders under prayer 2 of the application. What is now pending consideration are prayers 3, 4, 5 6 and 7.

There being no objection or opposition to the application and considering that the protection of a deceased's estate is in issue, I find no reason to decline granting the orders sought. I therefore allow the application and grant prayers 3, 4, 5 and 6.

As for costs, they will be in the cause as the Succession proceedings are still pending determination.

Dated and delivered at Kakamega this 22nd day of May, 2014

George Dulu

JUDGE