



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 3070 OF 2002**

**IN THE MATTER OF ESTATE OF SAPENCIA OMWAKWE (DECEASED)**

**RULING**

1. On 24<sup>th</sup> July 2014 I directed that the application dated 4<sup>th</sup> April 2014 be heard during the August vacation on 14<sup>th</sup> August 2014.
2. On 14<sup>th</sup> August 2014 Mr. Gathaiya for the applicant presented himself before me ready to argue the said application. He informed me that he had served hearing notice on the other parties.
3. I have perused the court file. I note that there is an affidavit of service sworn on 2<sup>nd</sup> August 2014 and filed in court on 13<sup>th</sup> August 2014 showing that a hearing notice had been served on 30<sup>th</sup> July 2014 on Omwakwe & Associates Advocates and Ongweny & Moibi Advocates. Both law firms embossed their respective date stamps on the notice and the persons served acknowledged service by signing on the notice duly returned to court. I am therefore satisfied that there was proper notice of the hearing date.
4. I have on record evidence that the application dated 4<sup>th</sup> April 2014 was served on the affected parties. There is the affidavit of service sworn on 3<sup>rd</sup> June 2014 and filed in court on the same day. It shows that the application was served on Ongweny & Moibi Advocates, Theuri Wanjohi & Co. Advocates and Susan Joyce Omwakwe.
5. There had been no reply to the said application as at 14<sup>th</sup> August. The application dated 4<sup>th</sup> April 2014 is therefore not contested.
6. In view of paragraph 5 above, I have no basis for declining the orders sought in the said application, and I do hereby allow the same with costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 28<sup>TH</sup> DAY OF August 2014.**

**W. MUSYOKA**

**JUDGE**

**In the presence of Mr. Gathaiya advocate for the applicants.**