

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

SUCCESSION CAUSE NO. 740 OF 2008

**IN THE MATTER OF THE ESTATE OF: WILLIAM ODERO
OWITI.....DECEASED**

AND

**IN THE MATTER OF: AN APPLICATION BY FINCH SHADRACK OMOLO
OWITI.....APPLICANT**

VERSUS

**JAMES ODHIAMBO
OGUTU.....RESPONDENT**

R U L I N G

The late Pamela Aoko Odongo and James Odhiambo Agutu, the respondents were granted letters of administration to the deceased estate here on 10-2-2009.

Apparently, Pamela the mother to the applicant died on 30-8-2009. The applicant was then a minor together with his brother D C O who is still a minor.

The application dated 18-12-2013 prays that the letters of administration given to the respondent, being now the only surviving administrator, be revoked for he has not managed the estate well. The applicant prays that he renders the accounts so far.

The respondent has filed a replying affidavit sworn on 1-4-2014 in which he has distanced himself from the allegation. He claims that the late Pamela was granted limited letters pursuant to the application dated 8-12-2008, to administer the estate. He asserts that the rent collected from Hon. Dr. Nyikal can only be accounted by Monica Odongo the sister to Pamela.

Apparently, it is the said Monica who has the custody of the children and the applicant's decisions of having her be made an administrator. She has however not sworn any affidavit to deny the respondent's allegation that she is in control of the estate.

For now it is not certain who has been collecting the rent from the estate. Is it the respondent or the said Mourice Odongo Were?

Since Monica is silent despite I suppose being well aware of the issues herein it would be unsafe to allow the application.

However, for the interest of justice and to ensure that the estate is secured I do order that Finch Shadrack Omolo Owiti and Monica Odongo Were be made joint administrators together with James Odhiambo Agutu. Each party be at liberty to apply. Costs in the cause.

Dated, signed and delivered at Kisumu this 17th day of November 2014.

H.K. CHEMITEI

JUDGE