



REPUBLIC OF KENYA

High Court at Machakos

Succession Cause 67 of 2013

IN THE MATTER OF THE ESTATE OF THE LATE SIMON SUKALI MULINGE (DECEASED)

BETWEEN

1. JACKSON K. SUKALI

2. JAMES M. SUKALI

3. JUSTUS N. SUKALI

4. MAURICE M. SUKALI

5. CHARLES M. SUKALI CITEES

VERSUS

1. JENNIFER JUDITH N. SUKALI

2. RUTH K NDETI CITORS

RULING

The citation to accept or refuse letters of administration intestate was filed on 5/2/2013. The summons dated 4/2/2013 was filed under a certificate of urgency and was filed simultaneously with the citation on

5/2/2013.

The summons was fixed for hearing *inter-partes* on 12/2/2013 when the parties appeared before me.

From the submissions made before me on 12/2/2013, it came out clearly that plot **No. 8A, 8B and 8C (Maisha Kamili Building) in Wote township** form part of the estate of the deceased herein. It was also not in dispute that the rental income from the aforesated premises was supposed to be utilized in taking care of the widow of the deceased who is critically ill and requires treatment and medication.

Since all the parties herein were in agreement regarding the foregoing issues, this court proceeded to make orders for the rental income from the aforesated premises to be collected by the 3rd citee **Justus N. Sukali** and remitted to the widow through her daughter, **Jennifer Judith N. Sukali** on or before the 10th of every month with effect from March 2013.

The parties were to engage in negotiations on the way forward and inform the court accordingly during the mention date on 15/3/2013.

On 15/3/2013 it turned out that only Kshs.5,000/= had been collected and remitted to the widow of the deceased. It turned out that the 3rd citee who was to collect the rent had encountered difficulties due to disagreements between the family members. The 3rd citee requested the court to discharge him from the responsibility of collecting the rent.

Although counsel for citee No. 1, 2, 4 and 5 pointed out that they are yet to put their reply to the application dated 4/2/2013, it has now become imperative to make some interim orders pending the hearing and determination of the application *inter partes*. I say so because it is now apparent that the rental income is not being remitted to the widow of the deceased as agreed by the parties herein.

Based on the reasons stated in the certificate of urgency and the application dated 4/2/2013 and bearing in mind **article 159** of the **Constitution** of the **Republic of Kenya**, I make the following orders pending the hearing of the application *inter- partes*.

(i) The 3rd citee, **Justus N. Sukali** is hereby discharged from the responsibility of collecting rent from the premises on **Plot No. 8A, 8B and 8C (Maisha Kamili Building, Wote Township, Makueni County)**.

(ii) **Jackson K. Sukali, James M. Sukali, Justus N. Sukali, Maurice M. Sukali** and **Charles M Sukali** are hereby restrained from interfering , intermeddling, wasting, managing or collecting rent from **Plot No. 8A, 8B and 8C (Maisha Kamili Building, Wote Township, Makueni County)**.

(iii) Ms Charton Properties are hereby appointed to collect rent and/or other incomes and/or manage the premises on plot No. 8A, 8B and 8C (**Maisha Kamili Building, Wote Township, Makeni County**).

(iv) Ms Charton Properties to remit the rental income collected from the aforestated properties to the widow of the deceased through the daughter, **Jennifer Judith N. Sukali**.

(v) The rental income to be utilized for the daily upkeep and welfare of the widow of the deceased.

(vi) The Respondents at liberty to file their replying affidavits in response to the application dated 4/2/2013.

(vii) Deputy Registrar to fix the application for hearing on a priority basis.

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B. THURANIRA JADEN

JUDGE

Dated and delivered at Machakos this **19th** day of March 2013.

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B. THURANIRA JADEN

JUDGE