



**REPUBLIC OF KENYA**

**High Court at Bungoma**

**Probate & Administration 35 of 2008**

**FATUMA NAMUKURU OKWETO.....DECEASED**

**AND**

**MWANAHAWA NEKESA WASIKE  
SAINA NAFULA WANYAMA**

**ASMINI WANYAMA.....PETITIONERS/APPLICANTS**

**VRS**

**ALI OLANDO.....OBJECTOR/RESPONDENT**

**RULING**

**Grant letters of administration**

[1] Mr. Waswa for the Petitioners applies that the Hon. Court do grant letters of administration to the Petitioners on two grounds:

- a) That all legal requirements have been complied with fully: to wit, the petition has been properly filed; and notice duly given vide Gazette Notice no.7422 of 2008.
- b) The objection that had been filed herein was dismissed on 4/10/2012.

**Application is opposed**

[2] Mr. Situma opposed issuance of letters of administration on the grounds that:

- a) There is no estate;
- b) The land in question belongs to his client and is not part of the estate; and
- c) The application is premature and should await the determination of ownership by the Land Registrar.

**Reply by Waswa**

[3] Mr. Waswa replied and maintained that;

- a) There is an estate to which the proceedings relate, and
- b) The Petitioners only want mandate to take care of the estate.

**Court renders itself thus**

[4] The law as is, once an objection to the grant of letters has been disposed of, the court should proceed to make the grant as prayed in the petition. Any other proceeding of any kind should be taken within the Petition as by law prescribed, but it cannot prevent the court from making a grant of letters of administration. Since the objection herein was dismissed on 4/10/2012, there is nothing which legally prevents the court from making a grant of letters of administration to the petitioners. I hereby grant letters of administration to the petitioners as prayed for in the petition.

[5] All the other issues being raised by Mr. Situma's client should be raised substantively in the petition and be dealt with as such. Fortunately, the Land Registrar has been directed to provide the record regarding the suit property and the court shall consider the records when they are availed.

[6] One thing I must say at this stage. The Petitioners cannot have authority on any matter of the estate before letters of administration are issued. The grant of letters of administration makes the Petitioners the proper party for purposes of the proceedings relating to the ascertainment or collection of the estate property. I also observe that issuance of the letters of administration does not prejudice Mr. Situma's client but only gives the petitioners authority to conduct these proceedings and establish whether the suit property or any portion thereof is part of the estate property.

[7] Grant of letters of administration do issue upon the petitioners.

**Dated, signed and delivered in open court at Bungoma this 12th day of March, 2013**

**F. GIKONYO**  
**JUDGE**