

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NO.349 OF 2009

IN THE MATTER OF THE ESTATE OF PHILIP WAMBUGU NGURE (DECEASED)

LUCY MUTHONI WAMBUGU APPLICANT

VERSUS

MARY NYAMBURA WAMBUGU RESPONDENT

RULING

The application dated 02/09/2009 that the court orders the Director of Pensions to process all the benefits due to PHILIP WAMBUGU NGURE (deceased) and deposit the same with the Judiciary in Nakuru.

The application is made by **LUCY MUTHONI WAMBUGU** who is listed as one of the deceased's next of kin. She explains that among the deceased's dependants are his children who are still in school and need money for school fees as a matter of urgency. The Director of Pensions is unable to process the payments without an order of the court. The matter proceeded exparte, the respondents having been served but failed to attend court.

In a supporting affidavit sworn by the applicant, she describes herself as the deceased's second wife and is involved in a dispute over the deceased's estate, with her co-wife **MARY NYAMBURA WAMBUGU**. The two have been granted letters of administration which the applicant has opposed. Due to the subsistence of this suit, the Teachers Service Commission (TSC) has been unable to process the payment of the dues. By a letter dated 26/03/2012, the Commission wrote to say it would not process the dues as there was a matter pending in court concerning revocation of Grant of Letters of Administration. She then obtained an order from the High Court requiring TSC to process the payments. However TSC wrote to say it was unable to comply with the order because it had no mandate to process and deposit the sums. The explanation given was that such a mandate lies with the Director of Pensions. From the information contained in the deceased's list of assets, the net value of his property is Kshs.1.5 million and included plots and shares in a Sacco as well as benefits in an insurance policy.

This application is similar to the one where Wendoh J granted orders only that the same were directed at TCS. This application is not opposed as the respondents did not file any response. I find no reason to decline the request especially because the applicant has made a lament about the children's need. I therefore allow the application as prayed. The Director of Pensions do process all benefits due to PHILIP WAMBUGU and deposit the same at the High Court of KENYA, Nakuru.

Delivered and dated this 26th day of April, 2013 at Nakuru.

H.A. OMONDI

JUDGE