



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO: 1154 OF 2010**

**IN THE MATTER OF THE ESTATE OF GEDRAPH KAMAU WAIYAKI (DECEASED)**

**RULING**

The application that I am invited to determine is dated 21st May 2012. It seeks revocation of the grant made on 22nd December 2010 to Jackline Wangari Kamau and Caroline Wanjiru Kamau.

The applicants are the siblings of the deceased. Their case is that the administrators of the estate were not the biological children of the deceased. They concede that the administrators' mother was carefully married to the deceased, but at the time of the marriage the administrators were already married adults who were living with their husbands and families and they therefore did not live with the deceased. The position appears to be that the respondent administrators never lived with the deceased and they therefore did not become his children, and, consequently, they were not entitled to a share in his estate.

The respondents counter this by averring that they were still minors when their mother married the deceased. They say that they moved in with the deceased after the marriage, and lived with him continuously until he died.

The nature of the facts that I need to help me determine this matter can only come out effectively at an oral hearing. There are details that do not come out in affidavit evidence. I feel that I will not do justice in this case if I determine the summons for revocation dated 21st May 2012 on affidavit evidence only. The deponents of the affidavits must be subjected to cross-examination. Consequently, I direct that this application be disposed of by oral hearing on a date to be fixed at the registry on a priority basis.

**DATED, SIGNED and DELIVERED AT NAIROBI THIS 27th DAY OF June 2013.**

**W.M. Musyoka**

**JUDGE**