

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO: 2252 OF 2004

AND

IN THE MATTER OF THE ESTATE OF GREGORY NDAMBUKI MUOKI (DECEASED)

RULING

The application dated 18th December 2012 seeks that the administrators be allowed to access two bank accounts for the purpose of withdrawing specified amounts of money so that they can share it out among the beneficiaries to meet their daily needs. This is really an application for partial distribution. The applicants aver that the children are in dire need.

To support the application one of the administrators has sworn an affidavit in which he attaches a copy of an agreement purportedly signed by the children to support the application and the sharing of the funds held in the said accounts.

I have gone through the agreement. I note that it is signed by persons who are not listed in the letter by the Chief and in the petition as surviving children of the deceased, and conversely it has not signed by children who are in the two lists. Samuel Musuvii Ndambuki has signed the agreement, yet he is not in the Chief's list nor in the list in the petition. Gabriel Musau Ndambuki, Francis Muoki Ndambuki and Agatha Nthenya Ndambuki are in the Chief's list and in the petition, but they have not signed the agreement. The affidavit does not explain this anomaly.

I will grant leave to the applicants to file a further affidavit to explain this situation. The matter shall thereafter be mentioned after thirty (30) days for further directions.

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

W.M. Musyoka

JUDGE