

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

Succession Cause 615 of 2008

**IN THE MATTER OF THE ESTATE OF THE LATE BERNARD MACHARIA MAHUNGU
(DECEASED)**

DIRECTIONS

This citation (in H.C. Succ. Cause No.550/2009) was brought nearly three years ago by Alice Wairimu who was desirous of bringing a claim in damages against the estate of the citee's husband who is deceased.

In response to the citation, the citee explained that she had already petitioned for and issued with Letters of Administration *ad colligenda bona* in Nakuru H.C. Succ. Cause No.109 of 2008 and further that she had also applied for a full grant in Nakuru H. C. Succ. Cause No.615 of 2008. In her view no purpose would be served by her taking another grant of probate under the citation.

It is apparent from the three files in respect of this matter that in compliance with the orders issued in cause No.109 of 2008 directing the citee to apply for a full grant within thirty (30) days, the citee and a co-petitioner filed Nakuru H.C. Succ Cause No.615 of 2008. At some stage, the Deputy Registrar directed Form P & A 57 to be signed by sureties instead of the citee and co-petitioner. That was the last time the citee took any step in the matter. That was in November, 2008. Later on 8th June, 2011 the petition was withdrawn. But even with that withdrawal parties continued to explore a settlement in the cause.

As a matter of fact, on 4th July, 2011 both counsel for the parties took directions by consent in that cause that the citee would take out letters of administration within three months. The matter was fixed for mention on 5th October, 2011 to confirm compliance. One year today, no step has been taken by the citee to petition for a grant.

Bearing in mind the time this matter has taken to conclude and the purpose for which the citor brought Nakuru H.C. Succ. Cause No.550 of 2009, it is directed as follows:

- i) that the citee complies with consent order recorded in this cause on 4th July, 2011 by taking out full letters of administration within one (1) month from the date of this order, either by petitioning the court afresh or by proceeding in Nakuru H.C. Succ. Cause No.615/2008 to avoid expense;
- ii) if the citee fails to comply with (i) above or the grant will be issued in terms of citation in Nakuru H.C. Succ. Cause No.550 of 2009;
- iii) mention on 19/10/2012 to confirm compliance with (i) above or to grant (ii) above.

Dated, Signed and Given at Nakuru this 30th day of July, 2012.

**W. OUKO
JUDGE**