



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA

(Coram: Ojwang, J.)

SUCCESSION CAUSE NO. 108 OF 2006

IN THE MATTER OF THE ESTATE OF SULEIMAN JUMA CHARO

RULING

The applicants, **Susan Oyuga Juma** and **Fridah Mwaka Mwanyae** moved the Court by Chamber Summons dated **14th October, 2010**. The application carried one main prayer:

“THAT the third administrator, *Said Juma Charo*, be replaced with *Charo Kakenga Chula* as the new third administrator of the estate of the deceased.”

In the general grounds for the application, it was stated as follows:

- (i) the deceased left behind two minors among the beneficiaries, and these minors urgently need funds for upkeep and subsistence;
- (ii) the third administrator, **Said Juma Charo**, is incapable of administering the estate on account of personal commitments and unbecoming conduct;
- (iii) the said third administrator has faced criminal charges in relation to his conduct as an administrator of the subject estate;
- (iv) the said third administrator is not one of the beneficiaries, while the proposed co-administrator is the father of the deceased;
- (v) the application causes no prejudice to any party, and besides, seeks to safeguard the interests of the

children of the deceased.

The applicants have sworn an affidavit in which they depone that they are the widows of the deceased, who left behind two young children: **Hussein Mwambire Suleiman** (12 years old) and **Khadija Sidi Suleiman** (6). It is averred that the deceased's only asset is his death gratuity payable by Kenya Ports Authority; that the third administrator, **Said Juma Charo**, is already facing charges of fraud in Criminal Case No. 660 of 2007, in relation to the deceased's estate; and that a replacement for the third administrator is necessary, so as to be able to provide sustenance for the minors.

When this matter came up before the Court, on **12th November, 2010** the first applicant made a case for an order for the replacement of the third administrator; and the proposed new administrator, **Charo Kakenga Chula**, stated that the current third administrator, his son, had been involved in impersonation, and had been charged in Criminal Case No. 660 of 2007.

The Registry availed to this Court the file on the said criminal proceedings: Criminal Case No. 660 of 2007 – **Republic v. Said Juma Charo and Mercy Kavata alias Fridah Mwaka Mwanyae**.

Since trust is a core ingredient in the administrator's role, it is obvious that the current third administrator's position became untenable, with the commencement and prosecution against him in the criminal case. There is, in the circumstances, justification in the application to have a new third administrator.

I hereby order that the current third administrator, **Said Juma Charo**, shall forthwith cease to be an administrator, and his place shall be taken by **Charo Kakenga Chula**.

The costs of this application shall be in the cause.

Orders accordingly.

DATED and DELIVERED at MOMBASA this 18th day of March, 2011.

J. B. OJWANG

JUDGE