

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

SUCCESSION CAUSE NO.2678 OF 2001

IN THE MATTER OF THE ESTATE OF BENJAMIN MUGUNYU KIYO – (DECEASED)

R U L I N G

Before me is an application filed by David Kiyo Mugunyu, one of the administrators of the estate of the deceased. The application is predicated on the provisions of **Rules 49, 59 and 73** of the **Probate and Administration Rules**. The applicant seeks several orders from the court. He prays for an order that Green Plots Properties, an estate agent, be restrained from collecting rent from the properties owned by the estate of the deceased. The applicant further prayed that the court appoints Messrs. Seb Estate Limited as the agent of the properties that comprise the estate of the deceased pending the final distribution of the estate. He sought an order of the court to compel Green Plots Properties to render account for the monies that it had received on behalf of the estate of the deceased from October 2008 to date. The application is supported by the annexed affidavit of David Kiyo Mugunyu. The grounds in support of application are stated on the face of the application. The respondents were served with application. They did not file any papers in opposition to the application.

During the hearing of the application, the respondents did not attend court. The application is therefore unopposed. From the supporting affidavit, it was evident that on two previous occasions, this court had directed Messrs. Green Plot Properties to render accounts in respect of the rent that they had collected from the properties that belong to the estate of the deceased. It is apparent that the said estate agent did not comply with the said orders of the court. It is this court's view that the applicant has established a case for the said estate agents to be restrained from further collecting rent from the properties that comprise the estate of the deceased. Messrs. Green Plot Properties, estate agents, are hereby restrained from collecting rent in respect of any properties owned by the estate of the deceased. The said estate agents are hereby given thirty (30) days from the date of service of this order to render accounts of all the monies that they have received as rent on behalf of the estate of the deceased. Such accounts shall be rendered from October 2008 to date. Messrs. Seb Estate Limited are hereby appointed to take over the management of the rental properties that comprise the estate of the deceased. The said estate agent shall manage the said properties pending the final distribution to the beneficiaries of the estate of the deceased.

The applicant shall forthwith serve the extracted order of this court to the said estate agents to ensure compliance. It is so ordered.

DATED AT NAIROBI THIS 16TH DAY OF MARCH, 2011

**L. KIMARU
JUDGE**