



SUCCESSION

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

SUCCESSION CAUSE CASE NO. 343 OF 2010

IN THE MATTER OF THE ESTATE OF M'IMPWI KILAKU ALIAS MBAABU M'IMPWI KILAKU (DECEASED)

BEATRICE CIOMAROO M'IMPWI 1ST RESPONDENT
JOHN BARIU MBAABU 2ND RESPONDENT

VERSUS

CHARITY KANINI M'IMPWI PETITIONER

RULING

When the deceased in this estate died he left behind a vast estate. He was equally survived by a large family of two wives and their children. All the surviving beneficiaries are 21 in number. A grant was issued to Beatrice Ciomaroo M'Impwi the 1st wife in this cause on 15th February 2011. The 2nd wife Charity Kanini M'Impwi was cited by the 1st wife because she failed to give her consent to the petition. The 2nd wife did not file an objection to the petition and hence why the grant was issued. The 2nd wife has filed an application by way of Chamber Summons dated 19th May 2011. By that application, she seeks an order that Kiegoi Tea Factory Company Ltd be ordered to release tea bonus of the deceased estate of Kshs. 209,000/= to the 2nd wife to be used by her to pay school fees of her children she bore with the deceased. The 2nd wife argued that if the money is not released her children who are young and were of school going age will miss their education. She deponed that the order of release of those funds would not prejudice the 1st wife because the children of the 1st wife are grown up and self reliant. The 1st wife stated in her replying affidavit that the 2nd wife has come to court with unclean hands and was therefore undeserving of the prayers that she seeks. The 1st wife deponed her in her affidavit that the 2nd wife forged the burial permit of the deceased and is presently facing criminal charges which are still pending before Maua Court. To that end, she annexed the charge sheet setting out those offences against the 2nd wife before that court. Further the 1st wife stated that the 2nd wife without the authority of this court withdrew Kshs. 266,539.05/= from the deceased's account which she transferred to her account. The 2nd wife did not respond to those allegations and therefore the court does accept them to be correct. In order to ensure that this vast estate is not wasted, I find that the best interest of all beneficiaries will be served by the same being distributed rather than ordering payment to any beneficiary in piecemeal. I therefore order as follows:-

1. *The Chamber Summons dated 19th May 2011 be and is hereby dismissed with no orders as to*

costs.

2. The administrator of this estate is hereby ordered to immediately file the summons for confirmation of grant and the same shall be fixed for hearing on priority basis.

Dated, signed and delivered at Meru this 30th June 2011.

**MARY KASANGO
JUDGE**