

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

SUCCESSION CAUSE NO. 395 OF 2001

IN THE MATTER OF THE ESTATE OF MACHARIA KIRIAKU (DECEASED)

RICHARD MWANIKI MUKUHA.....PETITIONER/RESPONDENT

VERSUS

JEREMANO WANJOHI.....OBJECTOR/APPLICANT

RULING

Jeremano Wanjohi, the objector/Applicant herein, took out the Summons dated 9th November 2009, in which he applied for the Arbitral award filed in court on 3rd November 1994 and read to the parties on 17th June 2008 to be adopted as the judgment of the Court. The Objector/Applicant swore an affidavit in support of the Motion. **Richard Mwaniki Mukuha**, the petitioner/Respondent opposed the Summons by filing the replying affidavit he swore on 23rd January 2009.

It is the submission of the Applicant that since the award was read to the parties no party has preferred an appeal hence the same should be adapted as the decision of this court. The Respondent was of the view that the Court should not grant the order because no administrator has been appointed to manage the deceased Estate. He suggested to this Court to first appoint an administrator first who will then give effect to the judgment.

Let me start by stating that there is no dispute that the dispute between the parties was referred to arbitration by the consent of the parties. The award was filed and read to the parties. No party has appealed. The points of objections raised by the Respondent will not affect the outcome of this court's decision. I am convinced the Motion has merit. It is allowed as prayed with each party bearing his own costs.

Dated and delivered at Nyeri this 29th day of July 2011.

**J. K. SERGON
JUDGE**

In open court in the absence of parties with notice.

**J. K. SERGON
JUDGE**