



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KITALE**

Miscellaneous Civil Application 68 of 2009

LINAH CHEROP WANGAMATI.....APPLICANT.

AND

**KAPON KISANG)
TULA KISANG).....RESPONDENT.**

R U L I N G.

By summons for citation to accept or refuse letters of administration intestate, pursuant to rules 21 of the Probate and Administration rules, the applicant sought orders that Kapon Kipsang and Tula Kisang do within 15 days after services of summons cause an appearance to be entered for him to accept or refuse letters of administration of all the estate which by law devolves to and vests in the personal representatives of the deceased or show cause why the same should not be granted to the said Linah Cherop Wangamati. That in default of entering appearance and accepting to extract letters of administration, the court do proceed to grant letters of administration of the estate to Linah Cherop Wangamati his absence notwithstanding.

The summons is predicated upon the annexed affidavit of Linah Cherop Wangamati sworn on the 9th day of September, 2009.

The thrust of the applicant's case is that Peter Kisang Chelewa died on 6th January, 1974 interstate, leaving behind Kapon Kisang and Tula Kisang as surviving widows, and being persons entitled to share in the estate. The applicants mother passed away on 20th July, 1988 as per exhibit "LCW 2".

That the deceased had ten (10) sons and daughters surviving him. Among the deceased earthly belongings was land measuring 60 acres in Lelan and 23 acres (plot No. 83) in Suwerwa Settlement Scheme.

That there is urgent need to have the estate of the deceased administered since he died intestate. The surviving widows have failed to apply for a grant of letters of administration since his death even when called upon so to do by a letter exhibited as "LCW 3".

I have carefully considered the evidence on record. Having done so, I order that Kapon Kisang and Tula Kisang do within fifteen (15) days after service hereof cause an appearance to be entered on their behalf in this cause/application. That in relation, they should accept or refuse to take up letters of administration of the estate which by law devolves or vests in the personal representative of the deceased. In default of entering appearance or accepting to extract letters of administration, this honourable court will proceed to grant letters of administration of the said estate to Linah Cherop Wangamati their absence notwithstanding an application.

Dated and delivered this 3rd day of February 2010.

**N.R.O. OMBIJA.
JUDGE.**