



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET

Succession Cause 2 of 2007

IN THE MATTER OF THE ESTATE OF GEORGE KIPLAGAT TALLAM.....DECEASED

RULING

Application De Bonis non

I. Background

- (1) In this law of succession probate and administration - file the original deceased who passed away was a police officer aged 47 years old on the 28th January 2003, of Malaria. The said deceased left surviving him a widow then aged 35 years old and a daughter aged 5 years old.
- (2) Temporary letters of grant was applied for, 4 years later in which the widow and the brother to the deceased were appointed administratrix /administrator. In this matter the letters was made on the 19th March 2008.
- (3) Unfortunately the said widow also passed away on 1st September 2009 aged 38 old of pneumonia. The Co-administrator now applies for a De Bonis non to appoint an administrator for the unadministered estate.

II. Application De Bonis non

- (4) The said applicant prayed that his elder brother be substituted as the co-administrator by application of 13th January 2010.

III. Findings

- (5) The law requires that the said applicant, as an administrator, cannot represent the estate alone. That there must be two administrators. The reasons being that under section 58 of the law of Succession Act, there must be two administrator, where a minor is a survivor to a deceased estate. This is to create a Resulting Trust. If the survivor was an adult the Co -administrator would have continued with the estate alone.
- (6) I hereby find that the application be and is hereby granted as prayed. The new administrator is enjoined. New grant to issue.
- (7) There will be costs in the estate.

DATED THIS 21ST DAY OF APRIL, 2010 AT ELDORET.

**M.A. ANG'AWA`
JUDGE**