



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET

Succession Cause 224 of 2006

IN THE MATTER OF THE ESTATE OF RUKUNGU WAIRIA.....DECEASED

RULING

Confirmation of grant intestate

I. Background

1. The deceased passed away on the 13th December 1993 aged 74 years old. He died of extreme wasting due to CA esophagus and CA prostate.
2. Joseph Waria Rukungu aged 37 and one Waria Rukungu jointly took out letters of Grant intestate. Form P&A 30 was received on 14/5/2003 from the Principal Registrar. The position was gazetted on 15th March 2007 in the Kenya Gazette.
3. Unfortunately the 2nd administrator passed away aged 61 years on 21/12/2007 of cancer. An application of 30/10/2008 was applied for by the 1st administrator for a De Bonis non to substitute one Charles Gikonyo Rukungu to the estate. This was granted on 15 December 2008 by which a new grant P & A 41 was issued on 19/12/2008.

II. Application for confirmation of grant October 2009

4. The applicant made application for confirmation of grant in October 2009. This was not issued until 2.3.2010 by the deputy registrar as the same was filed and received to Court on 1/3/2010.
5. On perusal of the application & documents it has become apparent that the deceased had surviving him two houses. The 1st widow passed away in 1995 Joyce Njeri Rukungu. The 2nd widow Damaris Munge Rukungu is believed to be still alive and aged 74 years old in 2006. There are four sons aged 66, 64, and 62 years old together with the administrator no.1 Joseph Waria Rukungu aged 39 years old. There are daughters aged 64, 43, 45, 41, 37, 35, and 47 years old.
6. The application has allocated all the Properties to the 1st administrator Joseph Waria Rukungu and other who are complete strangers to this case. The widow and other children of the deceased have not been named herein nor given apportion.
7. This application is dismissed. The two administrators are requested to file a fresh application that should include form P&A 38 and P&A 37 on the consent of making the grant and on apportionment of the deceased's assets.
8. They are to explain why the other members of the family are

not provided for.

9. Formal mention on convenient dates to confirm compliance.

P.&A 57 to be registered with the Lands department.

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

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M.A. ANG'AWA

JUDGE

21/4/2010

Advocate : Nil

- (i) Rukungu Wairia Joseph, Petitioner in person – Present
- (ii) Charles Gikonyo Rukungu Respondent in person - Present