



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**

**Succession Cause 1712 of 1997**

**IN THE MATTER OF THE ESTATE OF PETER NDUNG’U (DECAESED)**

JOHN MUTURI:.....APPLICANT

**VERSUS**

1. LUCY WAMBUI MUTURI:.....1<sup>ST</sup>RESPONDENT

2. ELIZABETH MUTHONI NDUNG’U:.....2<sup>ND</sup>RESPONDENT

**RESPONDENT**

The background information is that the grant herein was issued to one Lucy Wambui Muturi and Elizabeth Muthoni Ndung’u on the 9<sup>th</sup> day of December 1997. Thereafter the administrators presented an application dated 13<sup>th</sup> day of January 1999, and filed on 28<sup>th</sup> day of January 1999 for confirmation of the said grant. There is on record a confirmed grant signed by Aluoch J as she then was now her highness judge of the International Criminal Court.

In the schedule it is indicated that the properties of the estate were as follows namely:-

- 1. Land parcel No. KJD/Loodariak/1147 =4.01 Acres**
- 2. Land parcel No. Dagoretti/Kinoo/743 = 0.4 Acres**
- 3. Land parcel No. Limuru Rironi/595 =1.25 Acres**
- 4. Land parcel No. Limuru/Rironi/596 = 1.25 Acres**

Were to be held by the personal representatives namely, Lucy Wambui Muturi and Elizabeth Muthoni Ndung’u for the benefit of the Survivors/ Dependants of the deceased.

Against the afore set out background information one John Muturi presented an application by way of chamber summons dated 18<sup>th</sup> day of June, 2009 and filed the same date. A total of 7 reliefs are prayed for namely.

1. *spent*

2. *that this honourable court be pleased to issue a temporary order of stay of execution of grant of representation to the estate of the late Peter Ndung'u Muturi issued herein on the 19<sup>th</sup> March 1999 and thereby restrain the Administrators/Respondents their duly authorized servants, agents, employees and assigns from alienating, selling, disposing off and or dealing with the estate of the late Peter Ndung'u Muturi comprising of but not limited to all those parcels of land Reference numbers.*

- (i) *Dagoreti/Kinoo/743- 0.144 hectares*
- (ii) *Sigona/287-2 Acres*
- (iii) *No. 209/2788/16-Wamu House- city Centre*
- (iv) *Limuru/Rironi/595 = 1.25 acres*
- (v) *Limuru/Rironi/596 = 1.25 acres*
- (vi) *Kajiado/Loodariak/1147- 401 hectares*
- (vii) *Nduma Commercial plot.*

3. *The Respondent do render a true account of all the proceeds received from the sale of the business of late Peter Ndung'u Muturi known as M/S Wakahia Inter Business. The proceeds received from the National Bank of Kenya limited and the insurance compensation paid to the estate of the deceased pursuant to the accident claim within (14) days and or as the Honourable court may deem reasonable.*

4. *That the first Respondents Bank accounts with M/S Barclays bank of Kenya limited Nos. 094-3027560 and 094-8811855 market branch Nairobi holding part of the proceeds of the sale of LR NO. 209/2788/16 be frozen pending the hearing and determination of the application and or completion of the distribution of the estate within sixty (60) days and or such period the Honourable court may deem to be fit to grant.*

5. *That the Honourable court do distribute the estate of late Peter Ndung'u Muturi deceased due to the criminal misconduct of the administrators.*

6. *That in the alternative this Honourable court be pleased to grant an order for the revocation and or annulment of the grant of certificate of confirmation of grant issued to Lucy Wambui Muturi and Elizabeth Muthoni Ndung'u on 19<sup>th</sup> day of March 1999 and that the Applicant herein John Muturi be appointed in their place.*

7. *That the Respondent be condemned to bear personally the costs of the application.*

The grounds in support are set out in the body of the application and the supporting affidavit. The central theme in the same are as follows:-

- The personal representatives are a mother and sister of the Applicant.

- They got themselves appointed as administrators without the consent and approval of the Applicant.
- They got themselves registered as trustees but they have abused that trust, as they have transferred properties into their own names, and then disposed them off to the detriment of the Applicant.
- The Applicant has been disinherited.
- They have refused to distribute the estate to all the beneficiaries who are all adults. The reason for failure to do so is simply to facilitate their plunder of the same.
- The personal representatives lodged a claim for compensation following a fatal motor vehicle accident of the late Peter Ndung'u Muturi but have refused to disclose the amount of compensation and account for the same.
- One of the prime properties namely LR. 209/2788/16 situate at City Centre has been sold and the administrators have received over 30 million clandestinely without involvement of the Applicant who is the eldest child of the deceased.
- That there is fear that the money held in the said accounts risks to be withdrawn and deposited in unknown accounts unless the same is ordered preserved.

Turning to the supporting affidavit the following are stressed:-

- The deceased owned the properties set out in paragraph 4 of the supporting affidavit.
- The beneficiaries and dependants of the deceased are set out in paragraph 7 of the supporting affidavit.
- The administrators have not distributed the estate of the deceased 10 years after the issuance of the grant to them.
- Efforts by the applicant to get the administrators attend a meeting with a view to agreeing on the issue of distribution have been fruitless despite him applicant receiving assistance from close relatives and Provincial Administrators because the administrators have refused to cooperate on the issue.
- Him Applicant has also discovered that the administrators did not disclose all the assets belonging to the estate and instead they have been disposing the assets left out of the list secretly as per the search marked JM2.
- The 1<sup>st</sup> Respondent subdivided plot number Sigona/287 measuring 2 acres and had them sold off as per annexure JM3.
- The administrators also failed to disclose plot NO. LR. 209/2788/16 Wamu house as belonging to the deceased. Along the lines it transpired that the same had been illegally transferred to the deceased lawyers but through intervention by applicant and his uncle, it was agreed that the same be

transferred to the administrators to hold in trust for the benefit of all the beneficiaries. Instead of doing so the plot was transferred into the name of the first administrator who has since sold it and received over 30 million Kenya shillings. Some of these funds are held in bank account number 094-3027560 and 094-8811855 Barclays bank of Kenya market branch limited Nairobi.

- That the said administrators have been collecting rent from the said city centre plot to the tune of Kshs. 100,000.00 per month for over 10 years which amount has not been accounted for the and they are not willing to do so without the intervention of the court.
- In the year 2004 national bank moved to sell plot No. Dagorti/Kinoo/743 on account of an outstanding loan taken against the title by the deceased. The applicant negotiated to have the property subdivided, a portion sold off to pay the loan which was done. The applicant has now discovered that the resultant free subdivision has been transferred solely to the first Applicant and yet him Applicant has been living on the said plot.
- The Applicant also has knowledge that the first Applicant collected Kshs. 150,000.00 from Barclays Bank being the balance of the sale price of the sold plot but the first Applicant is hostile to the Applicant's inquiries about the correct position about its whereabouts.
- The Applicant has knowledge that the deceased died as a result of a fatal injury sustained in an accident. Upon inquiry the representative informed the Applicant that the insurance was willing to settle the claim for Kshs. 2 million but they have been reluctant to disclose the exact figure of compensation and to account for the same.
- It is the Applicant's stand that by reason of what has been stated above, he had demonstrated that the administrators are guilty of unbecoming conduct and for this reason the court is called upon to intervene and have the estate of the deceased distributed to the beneficiaries.

It is on record that interim orders were granted on the application. Thereafter the Respondents were served. They responded by filing grounds of objection and a replying affidavit. The salient features of the replying affidavit are as follows:-

- The affidavit is deposed by one Lucy Wambui Muturi with authority from the second Respondent to depone the same.
- The Respondents are a wife and daughter of the deceased respectively.
- The Applicant is son of the deceased.
- The deponent and her daughter were granted letters of administration to the estate of the deceased in the year 1997, which letters were confirmed in 1999 on 19<sup>th</sup> March whereby the personal representative were to hold the property listed in paragraph 7 of the replying affidavit in trust for the

beneficiaries.

- Contends that no property was omitted from the list of assets.
- Dispute the Applicants assertion that the property listed in paragraph 4 of the applicants affidavit were part of the estate especially the following

- (i) LR NO. Syna/287**
- (ii) LR NO. 209/2788/16**
- (iii) Nduna plot**

It is the deponents stand that she has administered the estate of the deceased faithfully and diligently and has always held the said properties of the deceased together with her daughter in trust for all the dependants of the deceased.

- It is her stand that all the discussion concerning the estate of the deceased are done with consensus.
- That plot Number Dagoreti /Kinoo/4277 which the applicant has cautioned belongs to the deceased that is till held in trust by the Administrators and the Applicant still uses and draws benefits from the same.
- That the Administration of the estate of the deceased has been done in accordance with the law and all the properties have been registered in accordance with the law.
- Contends that plot number sigona/287 did not form part of the estate because the deponent and the deceased held it in their joint names which property had been purchased by the deponent using a loan advanced to her by her former employer Barclays Bank, which property reverted to her solely after her later husbands' death.
- That she has always been owner of property number LR. NO. 209/2788/16 and the same has never been the property of the deceased.
- The Nduna plot was never ancestral land, never been party of the deceased estate and as such it is not subject of these proceedings.
- Contends that parcel number LR. NO. KJd/Loodariak/1147 was sold with the consent of all the beneficiaries and it was the Applicant who sourced the purchaser and he shared the proceeds of sale.
- Concedes the deceased had owned a business known as Wakahia Inter business which solely depended on the deceased and the same came to a halt upon his demise. Adds that the business was for distribution of sisal products and had no assets.
- It is their stand that the order for confirmation did not state that the estate be distributed but the same to be held in trust.
- That plot number Dagoreti/Kinoo/743 had an outstanding loan which necessitated the subdivision

and disposal of a portion to pay off the debt owed by the estate and the remainder was left for the Applicant who resides on the same with his family.

- Concedes that the deceased died in an accident and was paid some money which money was used to built a shelter for some beneficiaries and to renovate a structure for the applicant in what remained as Dagoreti/Kinoo/4277 and part of it went to pay dowry for the Applicant.
- Contends the Applicants is a mischief maker and he has no basis in law to challenge the grant more so when the administration of the estate had now been completed with the participation of the applicant.

There is in place an affidavit by one Steven Wachira Muturi deponed on the 6<sup>th</sup> day of August 2009, and filed on the 18<sup>th</sup> day of August 2009. The salient features of the same are as follows:-

- He has knowledge that parcel number LR. NO. 209/2788/16 had initially been owned by Jezazonu Company, a partnership business between one Kungu Karimba and his late father. They later transferred the business to their sons Peter Ndung'u Muturi and Karanja Kungu. The property accumulated rates and when the city council threatened to dispose off the property, the deceased herein had it purchased by his nominee Mwangi Kamotho but the deceased herein died before the property had been retransferred into his name.
- Mwangi Kamotho demanded Kshs. 200,000 as terminal benefits which the 1<sup>st</sup> Respondent allegedly declined to pay the same where upon the said Nominee Mwangi Kamatho disposed off the property to Wachira Nderitu.
- Through the efforts of the deponent, the property reverted back to the estate of the deceased and the same was to be held in trust for the beneficiaries.
- It is his stand that the first Respondent never purchased the said property.
- Also has knowledge the said property generated income to the tune of Kshs. 126,000 per month.
- Contends that he was a Director of Wakahia inter business and only learned later that shortly after the demise of the deceased the 1<sup>st</sup> Respondent sold all the assets belonging to the estate of the deceased and is a stranger to the allegations that the business was making huge losses at the time the same was sold clandestinely.
- He also has personal knowledge that he late brother had charged parcel number Dagoreti/Kinoo/743 when the bank threatened to sell the property, it is him and the Applicant who negotiated for the property to be subdivided and apportion disposed off to pay off the loan. The subdivision fetched Kshs. 1,050,000.00 out of which Kshs. 900,000.00 went to pay off the indebtedness to the bank leaving a balance of Kshs. 150,000.00.

- That instead of registering the property in the name of the Applicant the first Respondent secretly and fraudulently caused the property to be registered in her name.

The first Respondent put in a further affidavit deponed on the 31<sup>st</sup> day of August 2009, and filed on the 4<sup>th</sup> day of September 2009. The salient features of the same are as follows:-

- Maintains the only property forming the estate of the deceased are those enumerated in paragraph 4 of the further affidavit which formed the confirmation order.
- That the same were ordered to be held in trust for the dependants which properties are being held in trust for all the dependants in the name and the spirit of the court order.
- Still maintains that the Applicant has all along been involved in all the transactions involving the administration of the estate by administrators.
- That no factual evidence has been annexed to back up the deponements of Steven Wachira Muturi and as such, the said deponements should be disregarded for the following reasons:-

- (i) The said Steven lacks sufficient interest in the administration of the estate of the deceased.
- (ii) Failed to object to the application for the grant.
- (iii) Stephen has failed to show the source of the information relied upon.

- Confirms that parcel number Dagoreti/Kinoo/ 4277 is being held in trust in accordance with the court order mad herein.
- Denies the allegation that the Applicant has been discriminated against.
- She affirms that they will continue administering the estate in accordance with the law and the order issued.

The Applicant filed written skeleton arguments on the 10<sup>th</sup> day of March 2010. A perusal of the same reveals that they are a reiteration of the content of the deponements filed in his favour and the following has been stressed:-

- He has demonstrated that the Respondents who are administrators of the estate of the deceased have abused their position as administrators to the detriment of the Applicant.
- Evidence of abuse of position has been demonstrated by exhibition of proof of subdivision and disposal of the estate property to 3<sup>rd</sup> parties.
- It is their stand that it has taken too long for the said administrators to wind up the estate and distribute the property to the beneficiaries. No reason has been given for the delay and for this reason sufficient cause has been shown for the annulment and or revocation of the grant.
- They have demonstrated that the administrators have intermeddled with the estate property without the involvement of the Applicant.
- They have also demonstrated that not all properties of the deceased have been invented in the list of the deceased estate. These have been sold and proceeds not accounted for.

- The Applicants' assertion have been fortified by the fact that the Respondent received the money from the insurance which they have not disclosed or shared with the applicant.
- The court is also urged to believe the deponement of Steven Muturi.
- The court is also urged to note that no account has been rendered by the administrators.
- Their allegation of fraud has been demonstrated by the fact that the titles exhibited does not indicate that the said properties are being held in trust.

For these reasons given the application should be allowed.

The Respondents' submission on the other hand were filed on 3<sup>rd</sup> March 2010. The following are stressed:-

- The applicants' application is an abuse of the due process, brought in bad faith and aimed at circumventing the order of the court.
- The court is urged to go by them as regards the property they state belongs to the estate and which of those do not belong to the estate as they have provided proof of their assertion.
- That the court, should believe their assertion that those disposed off were disposed off with the cooperation and involvement of the Applicant.
- That the properties have been held in trust for the benefit of the beneficiaries as ordered by the court.
- The court, is urged to believe the deponements and assertions of Lucy that the administrators have administered the deceased's estate properly faithfully, properly and diligently and rule that no waste has been committed by them and dismiss the application with costs.

On the courts assessment of the facts forming the deponements and the rival arguments herein, it is of the opinion that the following appear to be the undisputed facts or common grounds herein:-

1. That the proceedings relate to the estate of one deceased person namely Peter Ndung'u Muturi.
2. That the proceedings were commenced way back in 1997 in the same year that the deceased died.
3. That the beneficiaries entitled to benefit from the said estate are those named in the affidavit in support of petition namely.
  1. Lucy Wambui Muturi
  2. John Muturi Ndung'u
  3. Joyce Kanini Ndung'u
  4. Elizabeth Muthoni Ndung'u
  5. J. Kamau Ndung'u
  6. Mary Wanjiku Ndung'u

4. That the applicant is therefore one of the beneficiaries of the said estate.
5. That the grant for probate was applied for in the joint names of Lucy Wambui Muturi as the widow and Elizabeth Muthoni Ndung'u as a daughter.
6. That the property declared as property belonging to the estate declared at the out sets are only four namely:-

- **KJD/100DARiak/1147-4.01 acres**
- **Dagoreti/Kinoo/743- 0.40 Acres**
- **Limuru Rironi/595-1.25 Acres**

The liabilities were stated to be bank loan borrowed on account of Wakahia Inter business (K) Limited against the number Dagoreti/Kinoo/743

7. That the first grant was issued on the 9<sup>th</sup> day of December 1997.
8. That the application for confirmation of the grant was made on the 13<sup>th</sup> day of January 1999, and filed on the 28<sup>th</sup> day of January 1999, and the same confirmed on the 19<sup>th</sup> day of March 1999. The property forming the confirmed grant are the same as those listed in the supporting affidavit. The confirmation order read that *"The property shall be held in trust by the personal representatives, namely Lucy Wambui Muturi and Elizabeth Muthoni Ndung'u for the benefit of the survivors/dependants of the deceased."*
9. That the Applicant has come to court 10 years after confirmation raising complaints already set out herein. The major ones in a summary form are that.
  - (i) The estate has not been distributed 10 years after confirmation despite the fact that all beneficiaries are now adults.
  - (ii) There is complaints that there are properties among those listed in prayer 2 and paragraph 4 of the supporting affidavit which belong to the estate and which were not declared as estate property both as at the time of application for the grant and at the time of confirmation. These are:-
    - (a) **Sigona/287- 2 acres**
    - (b) **LR. NO. 209/2788/6 Wamu house City Centre**
    - (c) **Nduna Commercial plot**
    - (d) **Insurance compensation over the fatal death of the deceased.**
    - (e) **Proceeds in the deceased bank account**
    - (f) **M/S Wakahia inter business.**
10. That the 1<sup>st</sup> Respondent who filed a replying affidavit in opposition to the Applicants application has stressed the following:-

- (a) The court order read that the properties were to be held in trust for the benefit of the beneficiaries and that is what the administrators are doing, obeying the court order to the letter by holding the property in trust for the beneficiaries.
- (b) That indeed the additional properties mentioned in the Application do exist but these were not estate property but property belonging to the 1<sup>st</sup> Respondent.
- (c) That M/S Wakahia inter business, had no assets and depended heavily on the good will of the deceased and the same collapsed after the death of the deceased.
- (d) Concedes that they were paid some compensation by the insurance on account of the fatal death of the deceased but utilized the same to put up a home for one of the beneficiaries, paid dowry for the Applicant and did renovation on her residence.

11. It is indeed correct that the confirmation order did not have a rider to the effect that the property to be distributed to the beneficiaries upon all of them attaining the age of majority considering the fact that as at the time of the issuance of the grant and the confirmation of the same two of the children were under age.

12. That indeed there has been no statement of accounts of how the estate property has been applied for the benefit of the beneficiaries despite the first Respondents assertion that the Applicant has all along been appraised of the ongoings in the transaction involving estate property and that on some occasions he is the one who sourced for the buyers.

13. That there is therefore a clear dispute as regards the ownership of the property not included in the lists of asserts as at the time of application and the time of confirmation.

Due consideration has been made of the afore set out common grounds in the light of the rival arguments and submission herein and the question that the court, has to ask itself is whether on the basis of the facts herein a case has been made out to warrant the Applicant being granted the orders sought or not and if so what are the reasons for upholding or not upholding the application. This court, has given due consideration of this question in the light of the common grounds or the undisputed facts of the case set out herein and the court is of the opinion that, the application has merit for the following reasons:-

1. Indeed the confirmation order read that the property was to be held in trust for the benefit of the beneficiaries and although the 1<sup>st</sup> Respondent has deponed that this has been complied with, she has not submitted an account to court on how the said properties have been benefiting the beneficiaries who include the applicant.
2. Indeed the confirmation order did not make a specific provision for distribution to adult beneficiaries. However that notwithstanding it is apparent from the deponements of the

applicant that he has all along been expressing a desire to be given his share of entitlement.

No justification has been given by the 1<sup>st</sup> Respondent as to why she has not yielded to the demands of the applicant. It has not been stated that those demands have been unreasonable.

3. Allegations that the Applicant has participated in sourcing purchasers for the benefit of the estates' beneficiaries in order to demonstrate that he has been involved has not been exhibited" Minutes of family deliberations where such consensuses have been reached have not also been exhibited or demonstrated to exist.
4. It is obvious that no account has been given regarding the amount of compensation received from the insurance on account of the deceaseds' fatal accident. Also amount of proceeds from the bank account of the deceased have not been disclosed. Applicant being an undisputed beneficiary is entitled to seek not only an account but also a right to benefit from the said proceeds.
5. That the Applicant is disadvantaged in that he is not one of the administrators, hence inability to bargain comfortably for his rightful share to be given to him.
6. Since the additional properties alleged not to have been included were not brought to the attention of the court, as at the time of the presentation of the application and confirmation, the court, made no orders with regard to the same and since the confirmation marked the end of the succession proceedings, there is no way this court, can interrogate the truthfulness of the allegations made by either side regarding these new properties without first re opening the matter.
7. That issues of ownership of property are weighty issues which cannot be dealt with by way of affidavits. These require adduction of evidence and cross examination of witnesses of something which cannot be dealt with by way of an affidavit in an application.
8. Since the assertion is that these are properties belonging to the estate of the deceased which are meant to benefit all the beneficiaries, the only proper forum where issues respecting them can be litigated is the current proceedings.
9. That the said issues cannot be adequately and properly litigated herein unless and until the confirmation order is vacated and or set aside. The vacation and or setting aside of the confirmation order will restore the parties to the state of the pendency of the application for confirmation. This will enable the descending voice of the Applicant to be heard on the issues of property alleged to be belonging to the estate of the deceased but not included in the

inventory of the property of the deceased. It is necessary to re open the matter, adduce evidence on the same and then the parties can be afforded an opportunity to produce documentation proof. Call witness for and against and then the court can rule on the merits of the issue.

The applicant will have an opportunity to ask for an account of all insurance compensation and the proceeds of the deceased bank account and the Respondents will be in a position to give that account.

10. When making the said re opening orders, the court has to bear in mind the fact that this matter has been pending for long. The Applicant appears to have had no avenue through which to air his grievances with regard to the management of the estate. The court therefore has to ensure that he is afforded an opportunity to participate in the running of the affairs of the estate with a mandate on equal footing like the other already participating administrators. The court does not expect any problem to arise with this new arrangement because the first Respondent has deponed that him the Applicant has all along been involved in the transactions relating to the affairs of the estate.

11. The court also has to bear in mind the fact that the matter has been pending for long and as such the orders it is gong to make in the disposal of the application dated and filed on 18<sup>th</sup> June 2009, are those that are going to serve the ends of justice to all the parties involved.

12. That the court has its inherent jurisdiction enshrined in Rule 73 of the Probate and Administration Rules which it can invoke for the said ends of justice to be done to those on board.

13. It is to be borne in mind that although confirmation order read that the property was to be held in trust for the benefit of the beneficiaries, it did not rule out the possibility of distribution of the entire estate to the beneficiaries upon all of them attaining the age of majority.

For the reasons given above in number 1-12 the court proceeds to make the following orders.

- (a) The confirmation order made on the 19<sup>th</sup> day of March 1999 be and is hereby set aside and or vacated.
- (b) The court invokes its inherent power enshrined and donated to it by rule 73 of the probate and administration rules and proceeds to make an order that for ends of justice to be served to both parties herein the applicant John Muturi be and is hereby made a co administrator to the estate of the deceased along side the other

two already on board.

- (c) By reason of what has been stated in number (b) above and in its exercise of its inherent power enshrined and donated by rule 73 of the probate and administration rules, the initial grant issued herein on the 9<sup>th</sup> day of December 1997 be and is hereby rectified in that the name of John Muturi be and is hereby added as a co administrator.
- (d) By reason of what has been stated in number (a), (b) and (c) above the Respondents be and are hereby ordered to surrender and return both the initial grant issued on the 9<sup>th</sup> day of December 1997 and the confirmation grant issued on the 19<sup>th</sup> day of March 1999 within 30 days from the date of the reading of this ruling.
- (e) Upon compliance with number (d) above a fresh grant do issue in the joint names of:-
- (i) Lucy Wambui Muturi.
  - (ii) Elizabeth Muthoni Ndung'u
  - (iii) John Muturi
- (f) Upon issuance of the grant in the three joint names as in number (g) above, the Applicant John Muturi do proceed to file an affidavit of protest listing the property alleged to have been left out of the inventory of the deceased property and then show his mode of distribution and cause it to be served upon the other two new joint administrators.
- (g) For purposes of preservation, prayer 4 of the application is granted whereby the 1<sup>st</sup> Respondents bank accounts No.s. 094-3027560 and 094-881155 market branch Nairobi shall remain frozen for a period of 60 days from the date of the reading of this ruling to enable the Applicant get on board as a co administrator.
- (h) For ends of justice to be met to all the parties herein, the former administrator namely Lucy Wambui Muturi and Elizabeth Muthoni Ndung'u be and are hereby directed to provide a full account of all transactions undertaken regarding the estate property in order to enable the incoming joint administrators be appraised of the ongoings in the estate to enable him participate fully in the final distribution and the winding up of the estate. The said accounts to be filed within 60 days from the date these orders are extracted and served formally on the said former administrator.
- (i) The applicant will have costs of the application paid for by the Respondents.

**DATED, READ AND DELIVERED AT NAIROBI** in absentia after due notice **THIS 24<sup>TH</sup> DAY OF**  
**SEPTEMBER, 2010**

**R.N. NAMBUYE**

**JUDGE**