



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

Succession Cause 757 of 2009

**IN THE MATTER OF THE ESTATE OF:
BARRACK ODHIAMBO OTIENO.....DECEASED**

**AND
IN THE MATTER OF AN APPLICATION BY:
LUDIA ADOYO MUGA.....CITOR**

R U L I N G

The citation was taken out by the applicant (citor) **Luadia Adoyo Muga** against the respondent (citee) **Gordon Sambuka Otieno** requiring him to accept or refuse letters of administration of all the estate which by law devolves to and rests in the personal representative of the deceased **Barrack Odhiambo Otieno** or show cause why the same should not be granted to the citor.

It is the citor's contention that she purchased land parcel No. **Kisumu/Manyatta "B"/1485** measuring 0.01 hectares registered in the name of the deceased but the citee who is the sole surviving brother to the deceased has refused and/or neglected to take out letters of administration to enable the transfer of the property to the citor.

The citee was served with a hearing notice but failed to turn up on the 22nd September 2010. However, a replying affidavit dated 24th December 2009 was filed on 4th January 2010 but it addresses mostly issues which are irrelevant to the present application.

It is quite evident that the citee is the person with an entitlement to a grant of the letters of administration respecting the estate of his late brother.

It is also apparent that he has delayed deliberately and/or declined to take the grant and has not renounced his right to the grant. Since he has failed to show adequate or any cause why the grant should not be taken by the citor, it is now ordered that within the next 30 days from this date he (citee) takes the grant respecting the estate of his late brother Barrack Odhiambo Otieno. In default the citor will be at liberty to take the grant.

Ordered accordingly.

Delivered, dated and Signed at Kisumu this 1st day of October 2010.

**J.R. KARANJA
JUDGE**

JRK/va