

REPUBLIC OF KENYA

IN THE HIGH COURT

AT BUNGOMA

SUCCESSION CAUSE NO.1 OF 2008

IN THE MATTER OF THE ESTATE OF THE BARASA SICHANGI KIMASWA (DECEASED)

AND

TUNAI NAFULA BARASA.....ADMINISTRATOR

AND

NYONGESA SICHANGI.....OBJECTOR

GABRIEL WEKESA BARASA.....OBJECTOR

CLEOPHAS MUTAMBO MAJI.....OBJECTOR

RULING

This is a ruling on a preliminary objection by the objectors Nyongesa Sichangi, Gabriel W. Barasa and Cleophas M. Maji dated 24/04/2010 seeking for striking out of the petitioner's application for confirmation of grant. The reasons given are that the petitioner has included names of strangers as beneficiaries of the estate and disinherited the objectors.

I have perused the record. The court had directed the petitioner to file the application for confirmation of grant and the objectors to file an affidavit of protest against confirmation. This was after talking to the parties and finding that they were unlikely to agree on the way forward. I do not think that annulling the grant is the right way to go. This is because the petitioner is the widow of the deceased and there is no question of her being the right person to administer the estate. Striking out the application for confirmation of grant is not the right thing to do. The reason being that that kind of action will result in retreating as far as this matter is concerned.

The preliminary objection raises no points of law to warrant the annulment of the grant or the striking out of the application. I therefore reject it accordingly.

I direct that parties take directions in this case and proceed to have the case heard as to the distribution of the deceased's estate.

**F.
JUDGE**

N.

MUCHEMI

Ruling dated and delivered on the 2nd day of December 2010 in the presence of the Petitioner and objectors.

**F.
JUDGE**

N.

MUCHEMI