



REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA
AT KISII
SUCCESSION CAUSE 455 OF 2008

IN THE MATTER OF THE ESTATE OF D M..... DECEASED

AND

H A M

D N R PETITIONERS

RULING

The Deceased **D M M** died on the 28th April 2008. On 30th March 2009 joint Letters of Administration Intestate of all his estate were granted to his widow **H A M** and his step-brother **D N R**. Such Letters are supposed to be confirmed after the expiry of six months, but the parties seek an earlier confirmation and the application has not been opposed. **Section 71(3)(b)** of the **Law of Succession Act Cap 160 the Laws of Kenya** provides that there can be such confirmation if the applicants show that it would be expedient in all the circumstances of the case to do so.

It is clear from the documents recorded that the deceased left his widow and eight children whose names were provided as follows: (a) **E A M** – daughter (b) **M A M** – daughter (c) **L A M** – daughter (d) **C A M** – son (e) **P O M** – son (f) **R A M** – Daughter (g) **V N M** – daughter and (h) **E O M** – son.

He left the following parcels of land within Kamwenda Adjudication Section:[particulars withheld]. The Administrators have proposed that the parcels be held by the widow in trust for the children each of whom will be entitled to an equal share. The deceased further left Kshs.1,000,000/- in his account No[particulars withheld] at Barclays Bank, Homa Bay branch. The reason for this application was that some of the children are in school and require fees which shall come from the amount above. From the Affidavit in support of this application, Kshs.100,220/- is sought as fees for **E M** who is a student at [particulars withheld] and, Kshs.26,140/= is required as fees for **R M** and [particulars withheld] Primary School. The three children further require Kshs.60,000/= for shopping and as pocket money. It has also been agreed that Kshs.200,000/- be withdrawn by the widow to be used for the upkeep of all the children of the deceased. The balance is Kshs.613,640/- which shall be saved in an interest earning account to be operated jointly by the Administrators for the benefit of the children.

In the terms above, the grant will be confirmed.

DATED at **KISII** this day of 2009

A. O. MUCHELULE

JUDGE

27/5/2009

Before A. O. Muchelule J.

Mr. Obare for Mr. Nyambati for Applicants.

Court: Ruling delivered in open court.

A. O. MUCHELULE

JUDGE