

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KAKAMEGA

Succession Cause 348 of 2006

IN THE MATTER OF THE ESTATE OF THE LATE CHARLES CHEYWE –

DECEASED

BETWEEN

YOHANA KEYA KIKUYU -----.....----- PETITIONER

VERSUS

PHINIAS ILATSIA KEYA ----- OBJECTOR

AND

MANOA LUSALA ----- CO-ADMINISTRATOR

RULING

In his application dated 16th February, 2009, the applicant, MANOA LUSALA seeks orders that he be appointed as the sole Administrator of the Estate of the late Charles Cheywe or that one **KEFA ADAGALA LUGINA** be appointed as a joint administrator in place of **EDWARD SHABANGA**. The application is supported by the applicant's affidavit sworn on 16th February, 2009.

Mr. Musiega, Counsel for the applicant submitted that on 20/1/2009 the grant for the deceased's estate was revoked by the court and the court appointed the applicant and one Edward Shabanga as Co-administrators. The name of Shabanga was proposed by the Petitioner while the applicant was proposed by the Objector. Counsel further submitted that Edward Shabanga declined to be a Co-administrator and the applicant proposed one Kefa Adagala while the Petitioner declined to propose another name after Edward Shabanga declined to be a Co-administrator. Counsel submitted that it was proper either the applicant to be a sole administrator or that the proposed person, Kefa Adagala Lugina be appointed as Co-administrator.

Mr. Nyanga for the Respondent opposed the application and submitted that the applicant scared away the proposed Co-administrator, Edward Shabanga. Counsel further submitted that the Petitioner proposed the name of **SETH LUBAI** to be a Co-administrator in place of Edward Shabanga but the applicant rejected the proposal.

The court directed that the deceased's estate be administered by two administrators. Since the administrator that was proposed by the Petitioner declined the appointment, it is only fair that the Petitioner be granted the opportunity to appoint another person to be a Co-administrator with the applicant. The Petitioner is opposed to the proposed co-administrator **KEFA ADAGALA LUGINA** and is offering the name of **SETH LUBAI**.

I do hereby order that the name of **EDWARD SHIBANGA** shall be replaced by that of **SETH LUBAI** who shall be a co-administrator with **MANOA LUSALA**, the applicant herein. The application dated 16th February, 2009 is dismissed. Each party shall bare its own costs. The two administrators should proceed and comply with the orders made by this court on 20/1/2009 relating to the gathering of the deceased's estate and application for Confirmation of the Grant.

Delivered, dated and signed at Kakamega this 17th day of September, 2009.

S. J. CHITEMBWE

J U D G E