



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Case 594 of 2006

1. Running Down Cause
2. Male adult aged 33 years old 2004
 - a) Motor vehicle collision
 - b) Passenger – Fatal
 - c) Dependant – widow and minor children.
 - c) Civil Practice and Procedure
3. Civil Practice and Procedure
 - a) Application 9 August 2007 to enjoin a 2nd plaintiff to suit.
 - b) Order I rules 10(1) and 13
Section 3A Civil Procedure Rules Cap.21.
4. Respondents advocates served – absent.
Order IXb r 3 (a) Civil Procedure Rules
5. Held:
 - a) Letters of grant issued in name of two administrators.
 - b) Suit filed in name of only one administrator.
 - c) Application to enjoin 2nd administration to suit in advertedly omitted
 - d) Granted because where minors are dependants in a suit there must be a minimum of two plaintiffs.
6. Case law

7. Advocates:

J.M.W. Kamuha of Ibrahim, Issack & Co. Advocates for the plaintiff/applicant – present

Mutitu Thiongo of Mutitu Thiongo & Co. Advocates for the defendant/respondent- absent

ETHEBA ADEN JELIE.....PLAINTIFF

VERSUS

NOOR MOHAMED HASSAN T/A MASLAH EXECUTIVE.....DEFENDANT

RULING

I: Civil Practice and Procedure

1. I am not quite sure why this application was placed before me as it concerns the running down portfolio which I no longer handle.

2. In brief Hilowie David Sheikh was involved in a motor vehicle accident whilst traveling as a passenger in motor vehicle KAQ 656 B, on the 5 October 2004. He sustained fatal injuries.

3. Letters of grant of administration intestate was issued on 1 December 2005 in Nairobi (Aluoch J) to two administrators Etheba Adan Jelle and Mohamed Ahmed Bulle.

4. Etheba Adan Jelle filed suit in her name only in the High court of Kenya

ng damages. She disclosed that the deceased dependants are minors. Two five year old daughters, one 3 years old son and one 2 year old daughter.

5 According to the section 58 of the Law of Succession Act where minors are involved there must always be a minor or two administrators to file suit and or being a claim for the deceased estate as a resulting trust is created.

6. The application of 9 August 2007 seeks leave of this court to enjoin Mohamed Bundle Ahmed to this suit to reflect that there are two administrators.

7. I would grant the application on grounds that grant of letters of administration intestate (form P & A 41) had already existed and duly issued prior to filing suit in the name of two administrations.

8. I accordingly order that the costs be in the cause.

Dated this 15th day of November 2007 at Nairobi.

M.A. ANG'AWA

JUDGE

J.M.W. Kamuha of Ibrahim, Issack & Co. Advocates for the plaintiff/applicant – present

Mututu Thiongo of Mutitu Thiongo & Co. Advocates for the defendant/respondent- absent