



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

**AT NYERI**

**Succession Cause 17 of 2007**

**IN THE MATTER OF THE ESTATE OF SIMON WACHIRA WANGORE- DECEASED**

**JANE WANGECHI WACHIRA**

**STEPHEN MWANIKI  
WACHIRA.....APPLICANTS/PETITIONERS**

**Versus**

**CHARLES GICHUKI WACHIRA.....RESPONDENT/  
OBJECTOR**

**RULING**

The summons dated 31<sup>st</sup> August, 2007 is brought by the petitioners herein. They seek the striking out of the objection filed by the objector herein. The application is brought under rules 49, 59, and 73 of Probate and Administration Rules. In support of that application the petitioners in their affidavit state that the basis of the objection was that it is alleged by the objector that the deceased before his death had made an oral will. The objector stated in his objection that the oral will was witnessed by two persons. The petitioners deponed that it is not true that an oral will had been made by the deceased. They had made effort to contact the alleged witnesses of that oral will who had denied being witnesses to such a will. They deponed that the children of the deceased are in harmony in the manner of the administration of the deceased estate apart from the objector who was being adamant for his own reasons.

The objector opposed the application by a replying affidavit. In that replying affidavit he reiterated the information in his objection that the deceased had made an oral will. That if the succession was to proceed in the manner suggested by the petitioners the same would be against the wishes of the deceased.

I have considered the application before court and the opposition. Apart from alleging that the deceased had made an oral will the objector also claimed that there were names of beneficiaries who had not been included in the petition. Bearing in mind those objections, I am of the view that the just decision is that a grant should issue jointly to the petitioners and the objector. The order of the court therefore is that a grant do issue in the names of **JANE WANGECHI WACHIRA, STEPHEN MWANIKI WACHIRA AND CHARLES GICHUKI WACHIRA**. Each of those persons shall be at liberty to apply for confirmation of grant and on such an application being made any party may raise a protest in respect of the mode of distribution.

There shall be no orders as to costs in respect of the summons dated 31<sup>st</sup> August 2007.

**MARY KASANGO**

**JUDGE**

*Dated and delivered at Nyeri this 15<sup>th</sup> day of November 2007*

**BY: M. S. A MAKHANDIA**

**JUDGE**