

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI
SUCCESSION CAUSE NO.1348 OF 1999

**IN THE MATTER OF ESTATE OF WATATUA KIBERE
(DECEASED)**

RULING ON DIRECTIONS

The Applicant, Solomon Wambu Watatua filed the summons dated 8th December 2003, seeking for the orders to strike out the petition which was filed on 23rd June 1999 by Arthur Watatua and Rahab Ng'endo Gathama for want of prosecution. The Applicant has also sought for an alternative prayer that the same petition be struck out for being an abuse of the process of the court.

I have read the grounds upon which this application is predicated as well as the supporting affidavit by the applicant. This petition was filed by Arthur Watatua and Rahab Ng'endo Gathama in June 1999. They listed several persons who were entitled to the grant of letters of representation including the Applicant in the same priority as themselves.

The Registrar directed that the persons having priority be served with citations. The citations were not personally served upon Winnie Watatua, Carol Watatua and David Watatua and the Registrar directed that all parties be served personally. That was on 31st August 2000. No action was taken by the petitioner and hence the application to strike out the petition.

Apart from the grounds advanced to strike out the petition for want of prosecution the other grounds advanced by the applicant to wit that the Applicants have no locus standi in law are suitable ground of objection.

I am inclined to give the petitioners the last chance within which to comply with the directions given by the Registrar on 31st August 2000 and ensure that all the parties cited are duly served with the citations within a period of thirty (30) days from the date hereof. Upon proper service after 30 days and payment by the petitioner of the requisite fees, the Registrar shall cause the petition to be published in the Kenya Gazette. Failure to comply with these directions the petition shall stand dismissed.

It is so ordered.

MARTHA KOOME

JUDGE