

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BUNGOMA

SUCCESSION CAUSE NO. 56 OF 199

AUGUSTINE KHAEMBA KATANI.....DECEASED

AND

PAUL MUMALI..... PETITIONER

PATRICK SHIKUKU KHAEMBA & 2 OTHERS.....OBJECTORS

R U L I N G

In a summons dated 15th October 2001, Leonard Wanyonyi Khaemba, one of the beneficiaries sought to have Mark Paul Mumali, the administrator of the estate of Augustine Khaemba Katami, deceased, removed and replaced with Patrick Sikuku Khaemba and Leonard Wanyonyi Khaemba. He swore an affidavit in support of the application.

The administrator opposed the summons by filing a replying affidavit sworn on 21st November 2001. The applicant claims that the administrator has not acted diligently in this matter hence he should be removed. He says he has been unfair to some of the beneficiaries.

He accused the administrator of having sold land measuring 1 acre due to the estate to one Hesbon Manyonge for Ksh.100,000/= without consulting the beneficiaries.

In his replying affidavit the administrator denied the applicant's allegations. He accused the applicant of rearguing the same issues which were determined by this court in a ruling delivered on 8/9/2000.

I have considered the arguments raised in support and against the summons. I have perused the court record and I am satisfied that the complaints raised in the summons herein were heard and determined by this court in the ruling delivered on 8th September 2000.

The grant was confirmed and a certificate of confirmation dated 26th June 2002 was issued by this court hence the Administration of the estate of Augustine Khaemba Katami, deceased is complete. This fact is conceded and confirmed by Mr. Were for the applicant.

I find this application lacking in merit. The same in my view, is vexatious and frivolous. It is dismissed with costs to the Respondent. The applicant should personally meet the cost of the application.

DATED AND DELIVERED THIS 13th DAY OF May 2005

J.K. SERGON

JUDGE