

1) *Civil Practice and Procedure*

2) *Locus to bring suit*

3) *Legal representative files suit alone without a co-administrator*

4) *Suits concerns minor*

5) *Minor/estate*

6) *Held:*

i. Legal representative who required to file suit where minors are dependent on deceased should be two in number under section 58 of the law of succession act to safe guard the interest of a minor

7) *Case law – Nil*

8) *The Succession act Cap.160 laws of Kenya section 58*

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

Civil Case 867 of 200

VERONICAH MWIKALI MWANGANGAI PLAINTIFF
VERSUS
DANIEL KYALO MUSYOKADEFENDANT

RULING

This is a ruling that arises from the submissions on whether or not a plaintiff/legal representative may file a suit on behalf of the dependants of the deceased where minor children's are concerned.

The plaintiff herein took out letters of grant limited for purposes of filing suit. When doing so, the result of any suit so filed would go to the estate of the deceased and consequently awards distributed to the dependents, who often may be minor children.

Where children are concerned in an estate, where the legal representative is a male or female, there must be two administrators to take up the Limited Grant for purposes of filing suit. This assists in ensuring that the resulting trust created for the children are safe guard.

The courts may invest any award given in an interest earning account in the name of the legal representative and the registrar of the High Court of Kenya but this concerns an estate of the deceased.

I hereby rule that for there to be a suit by a legal representative or dependent there must be two persons filing suit as to plaintiffs to guard the interest of the minor.

I hereby declare that a1 fresh suit be filed having two administration/legal representative to the limited grant. This suit is hereby struck out with costs to defendants.

Dated this 12th day of May 2005 at Nairobi.

M.A. ANG'AWA
JUDGE

F.M. Kalwa advocates for the plaintiff
B.N. Ngugi advocates for the defendant