



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT ELDORET  
PROBATE AND ADMINISTRATION CAUSE NO.237 OF 1999**

**IN THE MATTER OF THE ESTATE OF MAHINDI BOIT(DECEASED)**

**AND**

**NICHOLAS KIPTANUI AYABEI .....PETITIONER**

**RULING**

The application for grant of letters of administration to Nicholas Kiptanui Ayabei dated 29th May 2000 came for hearing on 10th May 2004. On 14th January 2004 I had ordered that a son of one of the sons of the deceased should be summoned to appear in court as Justice Juma had ordered in September 2003 that he should attend court.

Mr. Chepkwony for the applicant informed the court that service of hearing notice was effected but the said John Kibiego Rop chose not come to court. An affidavit of service dated 25th March 2004 sworn by Alfred Kipkirui Chepkwony was filed in court on 10th May 2004. The affidavit states that the said John Kibiego Rop was served with hearing notice on 10th May 2004 and though he accepted service he declined to sign the return copy. The affidavit says that service was effected by Alfred Kipkurui Chepkwony who is an advocate of the High Court of Kenya and that the said John Kibiego Rop became known to the said advocate at the time of service. The affidavit does not say how the person served was identified to the person who effected the service.

I am not satisfied about the service of the hearing notice. Additionally, I do not see any independent consent by one Simion Kipkemboi Ngisirei, son of the deceased agreeing that the estate be administered by the applicant. Also the affidavit of justification of proposed administrator is not dated. The guarantee by personal sureties is also not dated and revenue stamps have not been affixed.

In view of the above, I rule that I will hear the application after remedying the above defects and properly serving the son of one of the deceased whose name is John Kibiego Rop. Hearing date will be taken in the registry.

**Dated and Delivered at Eldoret this 21ST Day of June 2004**

**George Dulu**

**Judge**

Ruling read at 10.00 am in open court in the presence of Mr. Chepkwony for the applicant.

**George Dulu**

**Judge**

*(I certify this a true copy of the original)*

**DEPUTY REGISTRAR**