



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**SUCCESSION CAUSE NO. 2750 OF 2001**

**IN THE MATTER OF THE ESTATE OF GERALD TINDI OTIENO (DECEASED)**

**R U L I N G**

This application seeks to strike out the objections filed by the father of the deceased On 19th December, 2001 on the grounds that no steps are taken by him to get the objection heard

. It is also averred that the Applicant's counsel has served the notice under Rule 17 (5) of the Probate and Administration Rules to the counsel of the objector and no response is made of that notice.

However, I do note that there is no record of such notice having been either prepared or served. The Advocate of the Applicant has not filed any affidavit to support the averment. Surprisingly it is not even stated when and how such purported notice was sent. It is true that there is no response filed in response to the application or appearance was made by the counsel of the objector, at the time of hearing but that fact cannot entitle the applicant to get an order which is not justified.

In absence of appropriate evidence of the notice under the Rules and its service the application dated 24th April, 2002 is dismissed. I do not make any order on costs.  
Dated and delivered at Nairobi this 20th day of May, 2002.

**K. H. RAWAL**  
**J U D G E.**