

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

PROBATE AND ADMINISTRATION CAUSE NO.2258 OF 1996

IN THE MATTER OF THE ESTATE OF ISHMAEL JUMA

CHELANGA – DECEASED

RULING

This matter was last in court on 24th May 2002 when I delivered a ruling and appointed the deceased's widow and brother Swaleh Chepkole as the administrators of his estate. I also made a finding of fact and law as to who are the rightful beneficiaries to his estate. That position remains to date.

I did give the administrators about two and half months to gather and identify that estate so that today they would be able to record a consent on the proposed mode of distribution in accordance with Muslim or Islamic law. I note that Mrs. Zaina Mukami Chelanga today filed what she perceives to be the list of assets. This contains some 26 (twenty six) properties and four cars. Unfortunately this list has excluded all the properties of the deceased, which Mr. Jinaro Kibet Advocate testified to in his evidence. Quite clearly therefore this list is not complete. It is not exhaustive.

No list of assets has been filled by the deceased's brother co-administrator.

From his testimony before me Mr. Swaleh Chepkole did say that he knew of certain properties which the deceased owned and which Mrs. Chelanga had concealed. I am therefore surprised to note that, two months down the line, Swaleh Chepkole has not filed his list of the deceased's assets known to him or in his possession.

Miss Ndwiga Advocate has said that Mr. Swaleh Chepkole has been an inpatient at Moi-Teaching and Reberal Hospital Eldoret and was incapable of giving them any instructions. But Mr. Kibet Advocate is very much around.

He should have been called upon to participate in this exercise.

No list of deceased's liabilities have been filed. Mr. Miller has pointed out that they intend to hire the services of a professional Accountant to deal with this aspect of the deceased's estate. In my view, this move is acceptable to the court but this must be a joint exercise of the administrators of the deceased's estate. I will, in view of this, make the following orders:-

- (a) The administrators of the deceased's estate to hire the services of a Professional Accountant to prepare a full inventory of both the assets and liabilities of the deceased. A Report be presented to me on the 21st August, 2002.**
- (b) The Administrators are to make available all documents including title, leases, charges etc relating to the deceased's estate to the professional accountants who will be appointed, on the date of his appointment or soon thereafter to enable this exercise to be carried out.**
- (c) Both Administrators are to get actively involved in this exercise and in the general administration of the deceased's estate till the time the distribution of assets is completed.**
- (d) Mr. Jinaro Kibet Advocate to team up with Mr. Miller, and Miss. Ndwiga in the gathering of the deceased's estate, and his fees will be paid out of the estate by the administrators.**

(e) Mention on 21/8/2002.

A.G.A. ETYANG

JUDGE

5/8/2002.