



REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
CIVIL CASE NO. 2242 OF 1999

MESHACK THUNGU KABATI ----- PLAINTIFF  
VERSUS  
GERMAN ASSISTED SETTLEMENT PROGRAMME (G.A.S.P )  
----- DEFENDANT

R U L I N G

This application is brought under order VI rule 13(1)(b)(c) and (d) of Civil Procedure Rules (hereinafter referred to as “the Rules”). In it, the Defendant seeks to strike out the plaint.

It is common ground that the Plaintiff, who brings this action on behalf of a deceased person’s estate, had not obtained Letters of Administration prior to filing this suit. The Plaintiff who appeared in person stated that this default was not deliberate arguing that he was a lay person not conversant with rules of procedure.

The issue before the Court is whether the Plaintiff’s default is sufficient to render this suit incompetent.

I will answer that question summarily as follows: The Plaintiff’s failure to obtain Letters of Administration before filing this suit is fatal. He did not have locus standi to file this suit. It cannot be cured however. The effect of that default is that this suit is incompetent and must now be struck out. The Plaintiff cannot be helped even on the ground that he is a layman not conversant with the rules of this Court. Once he chose to move in this Court in person, he must comply with the procedure of the Court.

I, therefore, allow this application with costs.

***DATED and deliv ered at Nairobi this 12 th day of March, 2001***

***ALNASHIR VISRAM***  
***JUDGE***