



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI
SUCCESSION CAUSE NO.417 OF 1992

IN THE MATTER OF THE ESTATE OF CHARLES ANYANDA

GRACE KAUNDA LUYUNDI APPLICANT

VERSUS

EDWARD KAUNDA ANYANDA 1ST RESPONDENT

MATHEW LUYUNDI 2ND RESPONDENT

R U L I N G

The deceased Charles Anyanda Luyundi died on 16th April, 1991. He left the following heirs surviving him.

1. Edward Kaunda Anyanda - 28 years
2. Beatrice Anyanda - 26 years
3. Mabel Anyanda - 24 years
4. Maurice Anyanda - 20 years
5. Mathew Anyanda - 15 years
6. Allan Anyanda - 8 years

All these children were from his first wife who died in 1984.

The applicant is said to have been married by the deceased in 1985 after the death of the mother of the above named children. This was through Luhya Customary Law as evidenced by an affidavit of marriage sworn on 11th January, 1986.

After the death of the deceased Edward and Mathew applied for Letters of Administration in which they omitted to name the applicant as the widow of the deceased.

The applicant has deponed in par.4 of the affidavit in support of this application that the said Grant was later revoked on the ground of fraud and misrepresentation. The applicant later applied and obtained a Limited Grant of Letters of Administration ad colligenda bona on 30th September, 1998 in entitled her to collect rent from the house at Donholm LR.NO.Nairobi/BLOCK/82/42 and to process the deceased pension scheme and to apply the rent and the pension to pay school fees for the deceased minor children Nelly Anyanda and Faith Anyanda.

The order was extracted but the same was served on tenants living in plot No.11/1/Kakamega.

The applicant has been granted orders to collect rent to pay school fees for the deceased's minor children namely Nelly Anyanda and Faith Anyanda. These are children from the 2nd house. But the first house has also minor children who were left by the deceased's first wife who died in 1984, and who were not provided for.

Allowing one party to collect rent will not settle the matter, the matters the parties should take action the earliest possible to distribute the estate and that the only way this matter can be settled for the above reasons this application is dismissed with no order as to costs.

Dated and delivered at Nairobi this 18th day of July, 2001

J.L.A. OSIEMO

JUDGE