



**In re Estate of Justus Mwendapole (Deceased) (Succession Cause E421 of 2022) [2024] KEHC 7495 (KLR) (Family) (20 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7495 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**

**SUCCESSION CAUSE E421 OF 2022**

**HK CHEMITEI, J**

**JUNE 20, 2024**

**IN THE MATTER OF THE ESTATE OF THE LATE JUSTUS  
MWENDAPOLE(DECEASED)**

**BETWEEN**

**JANE ALUOCH MWENDAPOLE ..... APPLICANT**

**AND**

**DAVID ALLAN NGWONO MWENDAPOLE ..... 1<sup>ST</sup> OBJECTOR**

**WINNIE MWENDAPOLE ..... 2<sup>ND</sup> OBJECTOR**

**JOSEPHINE MWENDAPOLE ..... 3<sup>RD</sup> OBJECTOR**

**YVONNE MWENDAPOLE ..... 4<sup>TH</sup> OBJECTOR**

**RULING**

1. The late Justus Mwendapole died on 13<sup>th</sup> February 2010. He was a polygamous man. His first wife and the mother to the objectors has since died as well.
2. The Applicant who is the second widow has petitioned for limited letters of administration pursuant to the application dated 26<sup>th</sup> September 2022. The main reason is to collect and preserve the estate under an apprehension that the objectors and particularly David Mwendapole was wasting the estate.
3. Both David Mwendapole and Winnie Mwendapole have opposed the said application stating *inter alia* that the deceased had clearly apportioned his estate to the two families and as at the time of his death it was clear that every family would stay where they were.
4. The court has perused this application, the responses as well as the submissions on record carefully.



5. What is explicit and undeniable is that the parties herein are well related by virtue of their association with the deceased. I think what brings the differences is the management and eventual distribution of the estate.
6. The issue of who to grant the grant in my view is not problematic. As a matter of fact, the application herein ought to have been compromised long time ago by agreeing on who to be the administrators of the estate. In a situation like this it is always necessary to have representatives from the two houses.
7. In this case and since one of the widows is still alive, she has priority over the children unless she chooses to renounce her rights to administer. However, because the Applicant is willing, then it is appropriate that she be granted that opportunity.
8. At the same time, it is necessary to have a representative from the first house so as to take care of their interest. In this case I think unless he renounces, David Mwendapole can take up the responsibility.
9. There is no point therefore to have a limited grant. The appropriate way to manage the estate is to have the two administer and thereafter have the cause gazetted and later confirm the grant in the usual manner.
10. At the level of confirmation, the parties can agitate on how to share the same. The affidavit evidence before me at the moment ought to await the confirmation of the grant stage. All is not lost for both parties. They will tell the court how they wish to have the estate distributed.
11. For the above reasons and so as to save on the precious judicial time I direct that:
  - (a) Jane Aluoch Mwendapole and David Allan Ngwono Mwendapole are hereby appointed as joint administrators of the deceased estate herein.
  - (b) The beneficiaries are at liberty to add two more administrators of their choice if need be.
  - (c) This cause be gazetted forthwith.
  - (d) Costs in the cause.

**DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 20<sup>TH</sup> DAY OF JUNE 2024.**

**H K CHEMITEI**  
**JUDGE**

