

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

SUCCESSION CAUSE NO. 79 OF 2020

IN THE MATTER OF SHADRACK KEDOGO LUKASE (DECEASED)

Coram: Hon. Justice R. Nyakundi

Wilbur Antony & Co. Advocates

R U L I N G

This matter relates to the estate of the deceased Shadrack Kedogo Lukase who passed on 14/2/2014. As a consequence of his death the administration of his estate fell within the purview of the law of succession so as to devolve the estate to his beneficiaries.

From the letter issued by the chief of the area, the deceased was survived by the following beneficiaries. Esther Mudeizi Igala, Betty Aseyo, Sosnes Igesa, Harrison Kidiavai, Melab Kalendiza and Margaret Musalia. Through a gazette notice of 4/4/2021 one Nelson Kedogo was appointed as personal representative to the estate of the deceased who died intestate on 9/9/2021. A summons for confirmation of grant of letters of administration was filed seeking leave of the court pursuant to Section 71(3) of the Succession Act to have it confirmed to pave way for the distribution of the estate. The summons as lodged was supported by the affidavits sworn by the respective beneficiaries. Each of the beneficiaries has averred as to the mode of distribution of the estate. In essence there is no evidence of any objection to the confirmation of grant and the administration of the estate by the appointed personal representative.

I have carefully scrutinized the summons for confirmation, the consents signed by the beneficiaries and in addition further affidavits sworn and filed in support of the confirmation proceedings for the issuance of the aforesaid certificate for confirmation of grant. The certificate of confirmation of grant is provided for under Rule 41 (5) of the Probate and Administration Rules which provides as follows:-

“Where the source of exercising its power under Section 71(2) of the Act directs that the grant be confirmed, shall cause a certificate of such confirmation in Form 54 to be affixed to the grant together with the seal of the court.”

Clearly therefore there is prima facie evidence that the applicant have satisfied the criteria set outlined under the law of succession for this court to issue a certificate for confirmation of grant. The certificate for confirmation of grant issued shall be in sync with the averments in terms of paragraph 5 of the affidavit in support sworn by One Nelson Kedogo. The upshot of it all, the application is found to be meritorious to be granted as prayed.

I make no orders as to costs.

DATED, SIGNED AND DELIVERED VIA EMAIL AT ELDORET THIS 14TH DAY OF FEBRUARY, 2022.

R. NYAKUNDI

JUDGE

(info@wilburantonyadvocates.com)