



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**MILIMANI LAW COURTS**  
**FAMILY DIVISION**  
**SUCCESSION CAUSE NO. 2633 OF 2014**  
**IN THE MATTER OF THE ESTATE OF KIPNGENO ARAP NGENY(DECEASED)**

**ANTHONY KIPTOO NG'ENO.....APPLICANT**

**VERSUS**

**JOHN C. KOECH.....1<sup>ST</sup> RESPONDENT**

**BRIGADIER ALEXANDER SITIENEL.....2<sup>ND</sup> RESPONDENT**

**RULING**

1. The deceased Kipngeno Arap Ngeny died on 1<sup>st</sup> July 2014. He left a written Will whose executors were the respondents John C. Koech and Brigadier Alexander Sitienei. The children of the deceased are Christopher Kiprono Ng'eno, Anthony Kiptoo Ng'eno, Patrick Kipchirchir Ng'eno, Elizabeth Chekurui Lawrie and Peter Kipkurui Ng'eno. The estate left by the deceased was vast. The respondents petitioned for the grant of probate with Will. The grant was issued on 20<sup>th</sup> January 2015, and confirmed on 17<sup>th</sup> October 2015.

2. The complaint by the applicant Anthony Kiptoo Ng'eno is that since the grant was confirmed, the respondents have not completed the administration of the estate and have not distributed the properties contained in the estate in accordance with the deceased's Will, or at all. The further complaint is that the beneficiaries have been kept in the dark regarding the happenings in the administration of the estate. In the application dated 21<sup>st</sup> February 2020, the applicant seeks several prayers. One, that the court directs the respondents to provide a full and complete account of all their dealings with the estate of the deceased up to the time of the account. Two, that the respondents be ordered to distribute all the remaining assets after paying expenses and debts. Three, the respondents be ordered to adhere to the terms of the Will. Four, the court to set a reasonable time limit within which the above prayers shall be effected. Five, in the alternative, the court does order that the appointment of the alternate executors Cecilia Letting, Felix Koske and Brigadier (Rtd) Wilson Boinet to take over the administration of the estate.

3. The respondents filed a replying affidavit to deny the allegations by the applicant. They stated that the deceased left a vast estate that will take a long time to wind up, and that the disruptive nature of the applicant has not made it easy. It was alleged that he does not attend meetings. They stated that they provided an inventory and account dated 21<sup>st</sup> February 2020. However, the applicant responded that this inventory and account was lacking in material particulars, and was done to favour the respondents.

4. I have looked at the deceased's written Will dated 3<sup>rd</sup> April 2014. In paragraph 3:1(d) of the Will, there was anticipation of disputes in the course of the construction and interpretation of the Will. The deceased asked that such disputes be arbitrated or mediated upon.

5. In the replying affidavit, the respondents stated that the alternate executor Cecilia Letting was willing to mediate the dispute between them and the applicant. The applicant, on his part, sought that the alternate executors Cecilia Letting, Felix Koske and Brigadier (Rtd) Wilson Boinet be appointed to take over the administration of the estate in place of the respondents. He has therefore demonstrated faith in these alternate executors.

6. This estate has taken quite a long time for its administration to be completed. It is appreciated that it is a vast estate. It does appear that of all the beneficiaries, only the applicant has concerns with what is happening to the estate. That does not, however, make his concerns illegitimate. He has a right to be listened to and for his concerns to be addressed. He is one of the beneficiaries of the estate of the deceased and the respondents have the responsibility to account to him regarding how they are managing his late father's estate.

7. In the wider interests of justice, and in order to have the concerns of the applicant to be addressed, I direct that within 45 days from today Cecilia Letting shall convene a meeting of the respondents and all the beneficiaries of the estate of the deceased with a view to mediating any disputes among them, and with a view to drawing a roundmap that will lead to the completion of the administration of the deceased's estate.
8. Within 90 days the said Cecilia Letting will file into court the resolutions of such mediation that she will have conducted.
9. All the parties herein have the responsibility, in good faith, to attend and participate in all meetings called by Cecilia Letting.
10. This matter shall be mentioned on 26<sup>th</sup> July 2021 for further orders.

**DATED AND DELIVERED ELECTRONICALLY AT NAIROBI THIS 8<sup>TH</sup> APRIL 2021**

**A.O. MUCHELULE**

**JUDGE**