

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT HOMA BAY

PROBATE & ADMINISTRATION NO.748 OF 2015

IN THE MATTER OF THE ESTATE OF:

PASKALIA NYAMWANDA, JANE ANYANGO,

CATHORINA MINYERE & JOHN OGOLA OWINO.....DECEASED

BETWEEN

CLARICE AWINO OWINO.....APPLICANT/OBJECTOR

AND

JOYCE ADHIAMBO & ANOTHER.....RESPONDENT

RULING

1. Clarice Awino the objector herein is opposed to the mode of distribution. She is the widow of John Owino Ogola. She has argued that the children of Joyce Omondi have been made heirs which ought not to be the case.

2. I do agree with the objector. Grandchildren can only inherit their grandparents 'estate if they are representing their parents 'estate and have letters of administration to that effect. In the case of **Estate of Veronica Njoki Wakagoto (deceased) (2013) eKLR** it was stated (Musyoka J.):

... grandchildren can only inherit their grandparents indirectly through their own parents, the children of the deceased. The children inherit first and thereafter the grandchildren inherit from the parents. The only time grandchildren inherit directly from their grandparents is when the grandchildren's own parents are dead. The grandchildren step into the shoes of their parents and take directly the share that ought to have gone to the said parents.

In the instant case, the children of Joyce Omondi cannot be listed as heirs.

3. Any beneficiary can object to the mode of distribution without having taken out letters of administration. It is cheeky to argue that the objector lacks *locus standi* for she did not obtain letters of administration.

4. I therefore allow the objection and order the administrator to file another proposed mode of distribution which ought to have legitimate heirs only. She should do so within 30 days failure, the grant herein will automatically be revoked.

5. Costs to the objector.

DELIVERED AND SIGNED AT HOMA BAY THIS 14TH DAY OF JULY, 2021

KIARIE WAWERU KIARIE

JUDGE