

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

SUCCESSION CAUSE 336 OF 2020

IN THE MATTER OF THE ESTATE OF LAWRENCE NGINYO KARIUKI (DECEASED)

DIRECTIONS

Pending before the court in this matter are several Petitions/Applications as follows:

1. **Petition for Probate of Written Will dated 5th June 2020** brought by Margaret Wangari Nginyo Kariuki, James Anthony Kariuki, Silas Macharia Kariuki, Scholastica Njeri Kariuki and Jane Alice Wambui Kiragu being widow and children of the deceased.
2. **Objection to the above Petition dated 4th September 2020** filed by Brenda Nyambura Kiragu, daughter of the deceased, contesting the validity of the Will dated 13th June 2014.
3. **Objection to the above Petition dated 21st September 2020** filed by Winfred Wanjiru, Alex Ndoria and Austin Wachira, claiming to be widow and sons of the deceased.
4. **Petition for Letters Pendente Lite dated 7th October 2020** filed by James Anthony Kariuki.
5. **Petition for Letters of Administration Ad Litem dated 21st January 2021** by Margaret and others.
6. **Petition for Letters Pendente Lite dated 9th February 2021** by Brenda Nyambura Kiragu.
7. **Notice of Motion dated 24th August 2020** by Brenda Nyambura Kiragu seeking restraining orders.

Directions have been given to dispose of the Notice of Motion dated 24th August 2020 by way of written submissions. Parties have filed their respective submissions and this application is now pending ruling on 27th July 2021.

What is sought in this matter are directions on how to proceed with the remaining Petitions/Applications. Counsel for the parties to this Cause have made brief submissions on the matter. I have considered the brief submissions and the law. **Paragraph 10 of the 5th Schedule, Law of Succession** that deals with administrations pendente lite provides as follows:

Pending any suit touching the validity of the will of a deceased person, or for obtaining or revoking any probate or any grant of letters of administration, the court may appoint an administrator of the estate of the deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing the estate, and the administrator shall be subject to the immediate control of the court and shall act under its direction.

This is the situation obtaining in this Cause. The Will is contested. There are two Objections to the Petition of Probate that are pending determination and two Petitions for Letters of Administration Pendente Lite. It only right to have the two latter petitions/applications dispensed with first pending the hearing and determination the main petition and Objections to it. I therefore direct that the Petition for Pendente Lite **dated 7TH October 2020** and the second one **dated 9th February 2021** shall be disposed of first before the Petition for Probate and the Objections can be heard. It is my direction further that the two Petitions shall be disposed of by written submissions which shall be highlighted through virtual hearing or physical hearing whichever will be convenient given the situation presented by Covid 19 Pandemic. It is so ordered.

DATED, SIGNED AND DELIVERED THIS 12TH JULY 2021.

S. N. MUTUKU

JUDGE