



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**SUCCESSION CAUSE NO. 378 OF 1997**  
**IN THE MATTER OF THE ESTATE OF JONATHAN NJENGA (DECEASED)**  
**SALOME NJAMBI NJENGA.....APPLICANT**

**RULING**

1. The application subject of this ruling is dated 14<sup>th</sup> February 2020 and seeks one prayer; substitution of the widow of the deceased with her daughter **Salome Njambi Njenga**, on account of old age. The widow is 88 years old. The contention by the Applicant is that the widow is incapacitated and not able to conduct her duties as a result, further it is 4 years since confirmation of the grant, yet the estate is not fully distributed.
2. The application was opposed by the Administrators on grounds that distribution of the estate is complete save for transfer of the applicant's portion as she failed to provide documents that would facilitate transfer to her name.
3. The Applicant's counsel sought to have the widow brought to court in a bid to support the assertion that she is not mentally fit for the job.
4. The application was allowed and the court had an occasion to interrogate the widow. The court formed the opinion that despite her age, the widow was mentally fit and well informed, of course she may not be able to run around on account of age and this is left to the other Administrator.
5. What manifested itself as parties argued the application is the controversy surrounding the decision to set aside an acre from the estate to be sold for purposes of catering for administrative costs, and its likely value.
6. The 2<sup>nd</sup> Administrator claims to have met some costs for administration of the estate and that there are still pending bills. The Applicant did not dispute this.
7. The Applicant lives in the United States of America. America is not next door where she will go in and out easily due to cost and the distance.
8. Further, there is now bad blood between the Applicant and the 2 Administrators. The court wonders then how this mucky relationship will solve or conclude pending administration.
9. Bringing in the Applicant who resides several miles away, in another continent at the tail end of administration and who is not on good terms with the existing Administrators is not the most prudent way to go.
10. Needless to say that there are other beneficiaries in Kenya who can assist in administration. One Julia withdrew from administration citing that the Applicant felt that she could not directly be involved. Julia is the widow of a son to the deceased and therefore a beneficiary and nothing stops her from being an administrator.
11. Based on the above sentiments I direct as follows:
  - a. **I decline to substitute the widow with Salome.**
  - b. **I re-appoint Julia as a third administrator.**
  - c. **I direct that a joint valuation of the 1 acre set aside be done with costs of such valuation to be met by Lewis and Salome.**

d. Costs that are to be paid out and/or reimbursed for purposes of administration be discussed and agreed upon by all beneficiaries.

e. All beneficiaries be advised once a buyer is identified, disbursements and costs paid out. Balance be shared amongst all beneficiaries equally.

f. Each party to meet their own costs.

DELIVERED AND SIGNED AT NAIROBI THIS 14<sup>TH</sup> DAY OF OCTOBER, 2021

.....

ALI ARONI

JUDGE