



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KITALE**

**SUCCESSION CAUSE NO. 144 OF 2010**

**IN THE MATTER OF THE ESTATE OF DISHON NDAYALA AGOLA – DECEASED**

**JIMMY AGOLA.....APPLICANT**

**VERSUS**

**BELICE MUCHENGE AGOL.....1<sup>ST</sup> ADMINSTRATOR/RESPONDENT**

**JARED LUVAYI NDAYALA.....2<sup>ND</sup> ADMINSTRATOR/RESPONDENT**

**MUSA LITU NDAYALA.....3<sup>RD</sup> ADMINSTRATOR/RESPONDENT**

**WALIOLI & HUSSEIN ADVOCATES.....4<sup>TH</sup> RESPONDENT**

**RULING**

Jimmy Agola, one of the beneficiaries of the estate of the deceased herein has made an application before this court seeking order of this court to compel the administrators and their advocate, Walioli & Hussein Advocates to furnish accounts for the sale of LR No 2116/486 (IR 23967) (suit property) which was sold by the said administrators, allegedly without the knowledge of the Applicant. The Applicant complains that he did not benefit at all from the proceeds of the said sale. It is on that basis that the Applicant sought for the administrators and the advocate to furnish him with accounts.

Musa Litu Ndayala, one of the administrators swore a replying affidavit in answer to the application. He confirmed that indeed the suit property was sold for a purchase consideration of Kshs 40,000,000/=. However, the explanation takes a mysterious turn when he depones that only the sum of Kshs 12,564,999/= was transferred by the advocate to the administrators. No explanation was given as to how the sum of Kshs 27,435,001/= was utilized or who benefited from it.

This court agrees with the Applicant that indeed proper accounts of the said proceeds of Sale must be rendered. The replying affidavit sworn by the 3<sup>rd</sup> administrator is unsatisfactory and does not give proper accounts.

In the premises therefore, the application by the Applicant seeking proper and accurate statement of accounts is granted. The three administrators, with their advocate, are ordered to render proper accounts to this court within 30 days of today's date, failure of which the Applicant shall be at liberty to take appropriate enforcement measures.

The Applicant shall have the costs of the Application.

**DATED AT KITALE THIS 6<sup>TH</sup> DAY OF OCTOBER 2021.**

**L. KIMARU**

**JUDGE**