



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT ELDORET**

**SUCCESSION CAUSE NO. 296 OF 2001**

**IN THE MATTER OF THE ESTATE OF TINGO ARAP YEGO (DECEASED, ALSO KNOWN AS TINGO NGELO YEGO)**

**IN THE MATTER OF AN APPLICATION FOR REMOVAL OF ADMINISTRATORS**

**BETWEEN**

**JOHN TINGO.....1<sup>ST</sup> PETITIONER**

**DAVID KIPROTICH MURGOR.....2<sup>ND</sup> PETITIONER**

**AND**

**PHILISTA J. CHUMO.....1<sup>ST</sup> OBJECTOR**

**EMILIANA YEGO.....2<sup>ND</sup> OBJECTOR**

**RULING**

[1] This ruling is in respect of the application dated **10 February 2020**. It was filed herein by the Objectors, **Philista J. Chumo** and **Emiliana Yego**, pursuant to **Sections 45 and 46** of the **Law of Succession Act**, for orders that:

[a] spent

[b] The Administrators, namely, **John Tingo** and **David Kiprotich Murgor**, be summoned to attend Court to show cause why they are not ready and/or willing to effect transmission of the estate to the beneficiaries.

[c] In default of [b] above, the Administrators be removed from being the Administrators of the estate and that they be substituted by the **Felister Chumo**, **Carlina Tongoi Sang** and **Milka Jelagat Chumo** in order to complete the distribution of the estate.

[d] Any other order that the Court may deem fit to grant.

[2] The application was premised on the grounds that the deceased died intestate on **19 July 2001** and that his estate has remained under administration to date in spite of pleas by the beneficiaries that they be given their respective shares. The application is supported by the affidavit annexed thereto, wherein it was averred that this dispute has been pending before court since the year **2001**; and that it was not until **18 October 2019** that it was settled via mediation and a Certificate of Confirmation issued. That since then, the Administrators have resumed their indolence and declined to finalize the process of transmission as required of them. It was on that account that the instant application was filed.

[3] The Administrators were duly served with the application; and, whereas the 1<sup>st</sup> Administrator attended court, he was unable to give any justification for their indolence, except that they are not happy with the Mediation Settlement. The 2<sup>nd</sup> Administrator did not attend court and no explanation was given for that failure. Thus, the matter proceeded *ex parte* on **3 March 2020**. While acknowledging that this Succession Cause has been pending for long, the 1<sup>st</sup> Administrator completely failed to give any plausible justification for the state of affairs.

[4] I have nevertheless perused the record and noted that the deceased made a Will and set out his wishes therein as to how he wanted his estate handled. The provisions pursuant to which the application has been brought do not provide for the reliefs sought. And, as this is not an

application for revocation of Grant, I take the view that no sufficient cause has been shown for the removal of the Administrators. There is no proof that they have intermeddled with the estate for purposes of **Section 45** of the **Law of Succession Act**. It is manifest therefore that the application is incompetent and is hereby struck out. It is further ordered that immediate steps be taken by the executors to conclude this longstanding matter.

It is so ordered.

**DATED SIGNED AND DELIVERED AT ELDORET THIS 12<sup>TH</sup> DAY OF MAY, 2020.**

**OLGA SEWE**

**JUDGE**