



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUSIA

PROBATE & ADMINISTRATION NO. 12A OF 2012

IN THE MATTER OF THE ESTATE OF:

LEO ODUR RAJULA.....DECEASED

BETWEEN

GEOFFREY ODUOR WANJIRI.....PETITIONER

AND

ROSEMARY AKINYI WANJIRI.....1ST OBJECTOR

MARGARET ONYWERA ODUOR.....2ND OBJECTOR

CONSOLATA AKETCH ODUOR.....3RD OBJECTOR

RULING

1. On 18th October 2016, Margaret Onywera Oduor and Consolata Aketch Oduor filed summons for confirmation of a grant dated 3rd August 2016 in respect of the estate of Leo Oduor Rajula, the deceased herein. Before the same was confirmed, Rosemary Akinyi Wanjiri, the protestor herein filed an affidavit of protest dated 7th February 2017. The protest is premised on ground that the following are not children of the deceased herein:

- a) Geoffrey Oduor;
- b) David Oduor;
- c) Patrick Oduor; and

Evans Oduor.

2. This allegation was the easiest to prove. All the protestor needed to do was to attach documentary evidence with dates of birth of the concerned relatives, for example the copies of their national identity cards. She only stopped at the averment stage. This, in my view did not amount to discharging her burden of proof. Her protest cannot therefore, be sustained.

3. The chief's letter to the court dated 4th May 2011, named eight children of the deceased who included the four who are disputed by the protestor.

4. I have nothing on record therefore, that would hinder the confirmation of the grant.

5. Consequently, I confirm the grant in terms of the affidavit in support of confirmation dated 3rd August 2016. The administrators are hereby given six months within which to distribute the estate and render accounts.

DELIVERED and SIGNED at BUSIA this 3rd day of June, 2020

KIARIE WAWERU KIARIE

JUDGE