



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISUMU
MISC. APPLICATION NO. 2 OF 2019
IN THE MATTER OF THE ESTATE OF
CHRISTOPHER CYRIL OGOLA OSONGO (DECEASED)
AND
IN THE MATTER OF AN APPLICATION BY
TERESA AUMA OGOLA
RULING

1. The application dated 13th July 2020 sought leave of the court to have the following persons cited for contempt of court;

(i) Maurice Onguru Ogolla;

(ii) Phoebe Ogolla;

(iii) Everlyne Ogolla; and

(iv) Tom Ogolla

2. The Applicant asked the court to order the said 4 persons to show cause why they should not be jailed for a period of 6 months.

3. In the alternative, the Applicant asked the court to impose a fine of Kshs 1,000,000/= upon the 4 persons.

4. On the face of the application, the following were indicated as being the grounds upon which the application was founded;

“a. The administrators are disobeying court orders at their will.

b. The administrators must be punished for contempt of court.

c. That court orders are meant to be obeyed.”

4. The application was supported by the affidavit of **TERESA AUMA OGOLLA**. She made it clear that on 10th February 2020;

“... the Judge ordered that the administrators supply the court as well as the applicant with documents that they had filed in court, to enable us reconstruct the file, which has not happened todate.”

5. When the application came up for hearing on 22nd October 2020, Mr. Ken Omolo, the learned advocate for the Respondents pointed out that his clients were not the administrators of the Estate of the late **CHRISTOPHER CYRIL OGOLA OSONGO**.

6. It is common ground that on 23rd July 2015, Hon. Lady Justice Olga Sewe ordered that the Succession Cause herein be dismissed, because the Petitioners had not taken steps to prosecute it.

7. The learned Judge ordered that the Court file be closed.

8. Following the dismissal of the Cause herein, the Respondents ceased to be the administrators of the Estate of the deceased.

9. When it is borne in mind that the foundation upon which the application herein was grounded is the Respondents' capacity as the administrators, I have no alternative but to reject the application.

10. The orders which were allegedly disobeyed or disregarded by the Respondents, were orders expressly requiring the Administrators to make available to the court and to the Applicants, copies of all documents which they had filed in court and also the documents they had obtained from the court.

11. As the Respondents were not Administrators as at 10th February 2020, it cannot be said that they were the persons against whom the orders were made.

12. In the result, the application dated 13th July 2020 is dismissed.

13. Although the application was dismissed, I order that each party should bear his or her own costs thereof. I so order, because I am mindful of the fact that this is a family dispute, which therefore needs to be handled delicately, in order to avoid heightening emotions between the various members.

DATED, SIGNED and DELIVERED at KISUMU This 2nd day of December 2020

FRED A. OCHIENG

JUDGE