



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**SUCCESSION CAUSE NO.580 OF 2005**

**IN THE MATTER OF THE ESTATE OF ROSEMARY ANYANGO DECEASED**

**ANDREW OHANGA.....APPLICANT**

**RULING**

1. On 28/2/2006 a Certificate of Confirmation was made in respect of the Estate of ROSEMARY ANYANGO (the deceased herein) to ELLIS OMONDI OGWEL and CAROLINE ATIENO OREK pursuant to the provisions of Section 71 of the Law of Succession Act.

2. On 28<sup>th</sup> September, 2014, the said grant was rectified and CORNELIA APONDI OHANGA replaced ELLIS OMONDI OGWEL. The reasons advanced for removal of ELLIS OMONDI OGWEL was that he had misappropriated the funds of the Estate of the deceased and that he was suffering from compulsive disorder and unfit to remain an administrator of the Estate.

3. The application coming for consideration in this Ruling is dated 10/702018 and it is seeking to replace CAROLINE ATIENO OREK with ANDREW OHANGA as an administrator for reasons that CAROLINE ATIENO OREK has intermeddled with the assets forming part of the Estate of the deceased and further that she has never been kept in defending Civil Suit No. 6051 of 2005 where one of the properties of the deceased is at stake.

4. The deceased herein died on 12.6.2003 and was survived by the following children.

**(I) Carolyn AtienoOrek**

**(II) Ellis OmondiOgwel**

**(III) Patricia AchiengOngene**

**(IV) Benard Andrew Onyango**

5. I find that CAROLYN ATIENO OREK who has been an administrator cannot be said to intermeddle with the Estate as she has been mandated by law to administer.

6. The proper thing to do in the circumstances is to call upon her to give an account of her administration of the Estate since she has started acting as an administrator to date.

7. Rendering of Accounts is a statutory requirement under the Law of Succession Act as well as in the Trustee Act Cap 167 Laws of Kenya. The administrators were supposed to complete distribution of the Estate and to wind up within 6 months upon confirmation of grant.

8. I accordingly disallow the Application dated 10.7.2018 for reasons that the Estate vests on the administrators and they cannot be accused of intermeddling but should be held to account for the estate

9. The orders which are for the best interest of all concerned in this case is as follows;

(i) THAT the administrators herein, CAROLINE ATIENO OREK and CORNELIA APONDI OHANGA are hereby directed to render accounts of their administration of the Estate for the duration that they have been administrators, covering an inventory of the assets, the rents collected, the expenditure incurred among others.

(ii) THAT the said accounts shall be in Affidavit form, supported by appropriate documentation and the same shall be lodged in this

Court within 30 days of this date.

(iii) THAT all the beneficiaries to be served with the said documents and to appear in Court for directions after the expiry of 30 days.

**DELIVERED, SIGNED AND DATED IN OPEN COURT THIS 1<sup>ST</sup> DAY OF FEBRUARY, 2019**

**ASENATH ONGERI**

**JUDGE OF THE HIGH COURT OF KENYA, NAIROBI**