



THE REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

SUCCESSION CAUSE NO 261 OF 2007

IN THE MATTER OF THE ESTATE OF MORRIS KILONZO MUSYIMI (DECEASED)

PRISCILLA MUMBUA KILONZO.....1ST ADMINISTRATOR

VERSUS

PHOEBE MBENEKA KILONZO.....2ND ADMINISTRATOR

AND

DANIEL KILONZO AND FRANCIS KILONZO.....PROTESTORS

AND

SHADRACK MUSYOKI.....OBJECTOR

AND

BENARD MUTETI MUNG'ATA.....INTERESTED PARTY

ORDER

1. On 25th day of September, 2018 this court delivered a ruling in this Cause in which it found that the deceased and the Administrator intended that they be presumed to be husband and wife hence the Court ought not to put their desires asunder. Accordingly, the court proceeded to declare the 2nd Administrator a wife of the deceased and her children the children of the deceased.
2. The Court then directed, pursuant to the provisions of Article 159(2)(d) of the Constitution, that the parties attempt an amicable mode of distribution of the Deceased's estate, failure to which the Court would proceed to distribute the estate in accordance with the law.
3. On 5th March, 2019, counsel for the parties recorded a consent herein in which they agreed inter alia that the summons dated 12th October, 2018 be marked as withdrawn and that the application dated 6th March, 2017 be disposed by way of written submissions for which timelines were agreed. On 2nd July, 2019, I reserved the delivery of the ruling in respect of the said the application dated 6th March, 2017 for 7th October, 2019.
4. Upon perusing the record, I found that on 16th October, 2017, the parties recorded a consent herein by which *inter alia* the very same application dated 6th March, 2017 was marked as withdrawn.
5. It therefore follows that the application whose ruling date was reserved for delivery on for 7th October, 2019 no longer exists.

Read, signed and delivered in open Court at Machakos this 7th day of October, 2019.

G. V. ODUNGA

JUDGE

In the presence of:

Mr Nthiwa for the 1st Administrator

Mr Musyimi for Mr Mutinda Kimeu for the Protestor

CA Geoffrey