



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BUSIA

PROBATE & ADMINISTRATION NO. 23 OF 1999

IN THE MATTER OF THE ESTATE OF: THOMAS KHONGO WASIGULLY.....DECEASED

AND

IN THE MATTER OF: FLORENCE WABWIRE OMBITO.....PETITIONER/DECEASED

BETWEEN

DICKSON WAFULA ABAYO.....APPLICANT

AND

GLADYS AUMA MUGENI.....RESPONDENT

RULING

1. Dickson Wafula Abayo, the applicant herein, moved the court by way of Notice of Motion under section 76 of the Law of Succession Act and Rule 73 of Probate and Administration Rules for the following orders:

- a. That the deceased petitioner herein be substituted with the applicant and the respondent as co-administrators.
- b. That upon the granting of prayer (a), an amended grant of letters of administration be issued to the applicant and the respondent herein.
- c. That the costs of the application be provided for.

2. The application was premised on the following grounds:

- a. That the petitioner herein is deceased.
- b. That the applicant is a beneficiary in respect of **SAMIA/BUJWANGA/1721** which was the subject of the decision in Kakamega High Court civil case 461 of 1993.

3. The application was opposed on the following grounds:

- a) That the applicant lacks locus standi.
- b) That the applicant is a busybody.
- c) That the application is an abuse of the due process of court.

4. After perusing the affidavits of both the applicant and the respondent, I am satisfied that the applicant has demonstrated that he has a stake in the estate of the deceased in view of the order issued in Kakamega High Court civil case 461 of 1993. I therefore allow the application in terms of prayers (a) and (b) with no orders as to costs.

DELIVERED and SIGNED at BUSIA this 4th day of December, 2019.

KIARIE WAWERU KIARIE

JUDGE