



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERUGOYA
SUCC CAUSE NO. 512 OF 2013
IN THE MATTER OF THE ESTATE OF JERUSHA MUTAMBI WARAGA - DECEASED

A N D

LUKAS MUCIRA KITHAE.....PROTEST/APPLICANT

V E R S U S

JANE WANDAMA..... 1ST PETITIONER

ANTHONY CHOMBA.....2ND PETITIONER

RULING

The application pending before Court is dated 10/11/2016 whereby the applicant Jane Wandama Mugo who is an objector is seeking that letter of administration intestate be issued to her.

The application was based on the ground that on 05/06/2007 the matter was gazetted vide Gazette Notice No. 5498 for **Succession Cause No. 111 of 2007** whereby the applicant and Anthony Chomba applied to be administrators of the deceased estate. That in a ruling delivered on 19/02/2016, the court directed that she applies for grant of letters of administration intestate.

As per the petitioner/respondent there existed three succession files in respect of the deceased;

1. **Succession Cause No.111 of 2017** – petitioner Jane Wandama, it was withdrawn by W. Karanja, Judge since it was filed in the Law courts which court had no jurisdiction.
2. **Succession Cause No.287 of 2008** - petitioner Lucas Muchira Githae. Under Gazette Notice No. 1305 dated 13/02/2009 the petitioner had applied to be administrators of the deceased estate.
3. **Succession Cause No.512 of 2013** (formerly **Embu 382 of 2018**) – petitioner Luka Mukono Karanja, W. Karanja Judge noted that the petitioner died on 10/05/2009.

Succession Cause No.287 of 2008 was consolidated with **Succession Cause No.512 of 2013**. Therefore the respondent claimed that he was the only person who had a valid case.

The ruling of this court dated 19/02/2016 by Hon. Justice Limo in this matter at pages 7 and 8 was as follows;

“I have perused through the file and it is apparent that the deceased’s estate was gazetted twice vide gazette No. 1305 of 13th February, 2009 and gazette No. 5498 of 2007.I was however unable to locate the Kenya Gazette Notice No. 1305 of 13th February, 2009 in the court records and I have assumed that the gazette Notice No. 5498 of 2007 in Succession Cause No.287 of 2008which have been exhibited by the respondent is the valid gazetttment. If that is the case, the respondent and Antony Chomba should apply for issuance of grant of letters of administration in the normal way and in default, the applicant herein is at liberty to apply for citation under Rule 21 of Part VI of the Probate and Administration Rules against them in order to bring this matter to an end. He is also at liberty to in the alternative cross petition for letters of administration pursuant to Rule 17 of the Probate and Administration Rules.”

There has been no appeal against this ruling.

The petitioner also applied for letters of administration vide application dated 18/04/2017 which is pending hearing and determination.

In my view, as per the orders of the Court quoted above, the application by the applicant Jane Wandama Mugo has merits and is allowed as prayed.

Dated and delivered at Kerugoya this 3rd day of April, 2018

L. W. GITARI

JUDGE

Mr. Maina for Respondent

Mr. Kariithi for Applicant – Absent

C/A- Naomi

L. W. GITARI

JUDGE