



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**FAMILY DIVISION**

**SUCCESSION CAUSE NO. 2105 OF 2005**

**IN THE ESTATE OF REGINAH MUENI JONATHAN MBUVA**

**MARY NDILA MBUVE.....1<sup>ST</sup> APPLICANT**

**MATHEW KYALO MBUVE.....2<sup>ND</sup> APPLICANT**

**R U L I N G**

1. Before court is an application dated 21<sup>st</sup> of September, 2015 seeking for rectification of grant to the extent that:
  - (a) Succession Cause No. 1654 of 1993 be consolidated together with this matter.
  - (b) That the Petitioners in this matter be substituted with the administrator in Succession Cause NO.1654 of 1993.
  - (c) That the assets in that Succession Cause No. 1654 of 1993 be shared equally amongst the beneficiaries.
  
2. The reasons given for the application is that the applicants' mother was an administrator in Succession Cause No. 1654 of 1993, secondly the deceased in both this file and Succession Cause No. 1654 of 1993 are their parents, and they have since discovered more assets that belong to their parents.
  
3. In considering the application above the following facts stand out:
  - a. The estates belong to two different persons.
  - b. The estate of Jonathan Mbuve Mwilu has two administrators Regina Mueni Jonathan (deceased) and John Mutuku Mwilu.  
  
Nothing is said of the 2<sup>nd</sup> administrator John Mutuku Mwilu and why he cannot complete the process of confirming and distributing the assets in Succession Cause No. 1654 of 1993.
  - c. It is not clear what 'new assets' belong to which of the deceased parents.
  - d. And why there should be consolidation in the 1<sup>st</sup> instance yet the two ought and can be administered separately and distinctly without any inconvenience and hardship to the beneficiaries.
  
4. Against the above the court declines the application for the reason that the estates are distinct and separate and though one administrator in Succession Cause No 1654 of 1993, is since deceased the co-administrator can proceed to confirm and distribute the estate. Thirdly it has not been stated which assets have been discovered in the separate estates.
  
5. Appropriate applications be filed in the respective files which will henceforth be heard distinctly and separately.

**DATED, SIGNED and DELIVERED at NAIROBI this 15<sup>th</sup> DAY OF November, 2018.**

.....

**ALI-ARONI**

JUDGE