

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT ELDORET

CITATION CAUSE NO. 171 OF 2015

IN THE MATTER OF THE ESTATE OF KIPRONO SITIENEI (DECEASED)

HENRY K. MAGUT.....APPLICANT

VERSUS

JELIMO SITIENEI.....RESPONDENT

RULING

[1] The applicant moved the court vide the Citation Notice dated **26 October 2015** requiring the Respondent, as the widow of the deceased herein, to cause an appearance to be entered herein and to show cause why she has not applied for Grant of Letters of Administration Intestate in respect of the estate of the deceased and justify why the same should not be issued to the Applicant. In the Supporting Affidavit, the Applicant explained that, during his lifetime, the deceased was the owner of land parcel **No. Nandi/Kaptel/523**, of which he bought 1.2 acres. He is basically interested in having his portion of the property transferred into his name, but contends that the Citee is not keen on obtaining Grant to facilitate the process.

[2] The Respondent was duly served with the notice aforementioned on the **5 November 2015**, and an Affidavit of Service to that effect filed on **11 November 2015**, sworn by **Robinson O. Getange**. The record shows that the Respondent took no steps in the matter; and consequently, the Applicant ultimately set his application for hearing on **10 December 2018**. Again, Hearing Notice was duly served on the Respondent along with 3 other buyers; and an Affidavit of Service filed to that effect. Neither the Respondent nor the said buyers attended court on the hearing date; whereupon Counsel for the Applicant urged the Court to grant the orders sought in the Citation Notice **26 October 2015**.

[3] As was rightly pointed out by **Musyoka, J.** in ***Nairobi Succession Cause NO. 2557 of 2012 [2014] eKLR***:

“... Citations are intended to trigger the process of applying for letters of administration intestate in circumstances where the persons entitled to apply are not willing or are slow in moving the court in that behalf. The citor should not be a person who has himself already applied for the grant, for the citor should only apply for grant after the citee fails to so apply.”

[4] The Citee herein has been given an opportunity to come to Court and give an explanation as to why she has not Petitioned for Grant of Letters of Administration Intestate to the estate of the late **Kiprono Sitienei**. Accordingly, I would allow the Citation application and grant leave to the Citor, **Henry K. Magut**, to forthwith petition the Court for Grant of Letters of Administration Intestate in respect of the estate of **Kiprono Sitienei** (Deceased); and that the same be filed within 14 days from the date hereof. Costs of the application shall be in the Succession Cause.

Orders accordingly.

DATED, SIGNED AND DELIVERED AT ELDORET THIS 13TH DAY OF DECEMBER, 2018

OLGA SEWE

JUDGE