



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**SUCCESSION CAUSE NUMBER 876 OF 2012**

**IN THE MATTER OF THE ESTATE OF JOSEPH ARAP BETT (DECEASED)**

**AND**

**NANCY CHEMUTAI BETT.....1<sup>ST</sup> ADMINISTRATOR**

**JAPHET KIPKORIR KIRUI.....2<sup>ND</sup> ADMINISTRATOR**

**AND**

**VICTOR KIPKIRUI BETT.....PROPOSED 2<sup>ND</sup> ADMINISTRATOR**

**RULING**

1. The summons before court is dated 9/10/2018. The administrators of the estate of Joseph Arap Bett seek orders;

**1. Spent**

**2. THAT the Certificate of Confirmation of Grant of Letters of Administration made to the applicant herein on 8<sup>th</sup> November, 2013 be rectified.**

**3. THAT the Grant be rectified the mode of distribution of assets be rectified as follows;**

**(a) THAT the administrator JAPHET KIPROTICH KIRUI be substituted with VICTOR KIPKURUI BETT.**

**(b) THAT the property known as NJORO/NGATA BLOCK 7/41 (CHUMO) be given to NANCY CHEMUTAI BETT and VICTOR KIPKIRUI BETT jointly.**

**(c) THAT property known as HOUSE NO. 811 L.R. 72/1726 RUBIA ESTATE be given to NANCY CHEMUTAI BETT and VICTOR KIPKIRUI BETT jointly.**

**(d) THAT pension gratuity or any other benefits be given to NANCY CHEMUTAI BETT and VICTOR KIPKIRUI BETT.**

**4. THAT costs of this application be in the cause.**

2. The application is grounded on the affidavit of NANCY CHEMUTAI BETT and VICTOR KIPKIRUI BETT and on grounds;

i) THAT VICTOR KIPKIRUI BETT is the only child of the 1<sup>st</sup> administrator herein NANCY CHEMUTAI BETT and has now attained the age of majority.

ii) THAT the said mode of distribution be rectified as it is vital for distribution.

iii) THAT it is only fair that the beneficiaries get what belong to them.

iv) THAT it is vital for the grant to be rectified to enable the petitioners to distribute the estate to the respective beneficiaries.

v) THAT no prejudice will be occasioned to the co-administrator JAPHET KIPROTICH KIRUI.

vi) THAT all shares of the beneficiaries have been ascertained to this point.

3. Japhet Kiprotich Kirui, a co-administrator, has also sworn an affidavit indicating that he has no interest in the estate.

4. I have carefully considered the application before court. It is clear that the appointment of Japhet Kiprotich Kirui as a co-administrator was principally because one of the beneficiaries, Victor Kipkirui Bett was a minor at the time and there was therefore a continuing trust.

5. This was in compliance with **Section 58 (1) ( a)** of the **Law of Succession Act** which provides;

**“S. 58. - (1) Where a continuing trust arises -**

**(a) no grant of letters of administration in respect of an intestate estate shall be made to one person alone except where that person is the Public Trustee or a Trust Corporation.”**

6. There is evidence that Victor Kipkirui Bett has now attained the age of majority. It is no longer necessary to have a co-administrator and his substitution with Victor Kipkirui Bett will facilitate the final winding up of the estate and allow the beneficiary to hold their respective shares of the estate.

7. The mode of distribution is such that the beneficiaries are to hold the properties jointly and no party is prejudiced in the distribution.

8. For the above stated reasons, I am persuaded that the orders sought are necessary for the effective administration and winding up of the estate herein.

9. I allow the summons dated 9/10/2018 and make the following orders;

**1. Japhet Kiprotich Kirui be and is hereby substituted with Victor Kipkirui Bett.**

**2. The grant be and is hereby confirmed in terms of the consent dated 9/10/2018 and filed in court on 11/10/2018.**

**3. Costs of the summons shall be in the cause.**

**Dated and Delivered at Nakuru this 11<sup>th</sup> day of December, 2018.**

**A. K. NDUNG’U**

**JUDGE**