

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 1287 OF 2007

IN THE MATTER OF THE ESTATE OF PETER ELIUD NJERU NJAGI (DECEASED)

RULING

1. On 13th December 2016 I delivered a ruling where I directed the parties to consider appointment of interim administrators to take care of the estate during the pendency of the ongoing objection proceedings. The matter was thereafter reserved for mention on 11th January 2017 on that issue.
2. The parties appeared before me on 11th January 2017. The petitioner expressed willingness to be appointed interim co-administrator with the objector, but the objector stated that she had reservations about that, as, in her view, the same would amount to acknowledging the petitioner was a widow of the deceased when in fact she was not. The petitioner then said that in that event she would be conformable with the appointment of the Public Trustee as interim administrator.
3. It should be pointed out that the making of any grant of representation does not at all make the administrators heirs. That was underscored by the Court of Appeal in *Sewe vs. Sewe and another* [1991] KLR 105, where it was said that the appointment of administrators is not the same as distributing the assets to those who are entitled to inherit. See also *In the Matter of the Estate of Joseph Muchoki Muriuki (deceased)* Nyeri HCSC NO. 396 of 1999 and *In the Matter of Habakuk Ochieng Adede (deceased)* Nairobi HCSC No. 721 of 2000. Therefore, an appointment of the petitioner as interim administrator would not in any way make her an heir of the deceased herein. The fear expressed by the objector is unfounded.
4. Having taken all the sensibilities into account, I shall appoint the Public Trustee interim administrator herein during the pendency of the ongoing objection proceedings. A grant of letters of administration *pendente lite* shall issue accordingly to the Public Trustee in terms of paragraph 10 of the Fifth Schedule to the Law of Succession Act, Cap 160, Laws of Kenya.
5. The hearing of the objection proceedings to continue on 28th February 2017 and 4th March 2017 as scheduled.

DATED, SIGNED and DELIVERED at NAIROBI this 20TH DAY OF JANUARY, 2017.

W. MUSYOKA

JUDGE