



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 2467 OF 2015**

**IN THE MATTER OF THE ESTATE OF OSCAR ALUSIOLA MULAMULA (DECEASED)**

**RULING**

1. The grant herein was confirmed on 7<sup>th</sup> September 2016. An application was subsequently filed on 1<sup>st</sup> December 2016 seeking orders relating to funds held by ICEA Lion Asset Management Limited. The application was at the instance of the widow of the deceased, an administrator of the estate, Antonina Mulamula. There are on record affidavits by Kelvina Lishindi Atambo, Samson Lipeya Mulamula, Irene Ruth Sakwa Mulamula and Lillian Khayesi Mulamula, all in support of the application.
2. The only opposition to the application is by Edgar Alusiola Mulamula through his affidavit sworn on an unknown date in 2016 and filed herein on 9<sup>th</sup> December 2016.
3. When the matter came up for hearing on 13<sup>th</sup> December 2016, the rival parties compromised the application and recorded a comprehensive consent disposing of it. The matter was then set down for mention to confirm compliance. The matter was mentioned on 18<sup>th</sup> January 2017, when it transpired that the consent had left out 5.8% of the money at the bank and that the parties had been unable to agree on its apportionment. They opted to make oral statements, which they did.
4. After hearing the parties, it became clear that the bone of contention was whether the children of the deceased still in college should be provided for from the estate. All except Edgar Alusiola Mulamula were in support of the position that provision should be made for their college fees and the balance to be thereafter shared equally amongst the children.
5. I note from the material before me that most of the children have had opportunity to receive their education to whatever level during the deceased's lifetime. The deceased died before Samson Lipeya Mulamula was through with his schooling. It is only fair that the estate meets the expense of his education. Sylvia Masitsa Mulamula appears to have gone back to college late in life, but a majority of the family feel that the deceased would have paid for her education nevertheless. I shall hold that the school fees for her ought to be settled by the estate.
6. Of the two proposals placed before me, I am in agreement with the proposal by Antonina Mulamula, and I direct that the amount held by ICEA Lion Asset Management Limited should be disposed of as follows : -
  - a. That the money held by ICEA Lion Asset Management Limited shall be disbursed of as follows:-
    - i. Kshs. 2, 355, 894.00 to settle the advocates fees;
    - ii. Kshs. 529, 857.00 to settle unpaid workers' wages;
    - iii. Kshs. 1,657, 599.00 to meet college and related fees for Sylvia Masitsa Mulamula;
    - iv. Kshs. 553, 500.00 to meet school fees for Samson Lipeya Mulamula;
    - v. The widow to get 20% of the balance; and
    - vi. All the surviving children to share the surplus equally.

7. I note that I gave orders on 18<sup>th</sup> January 2017 for disbursement of some of the moneys the subject of paragraph 6 above, that would mean that the distribution stated in of paragraph 6 above shall take into account the disbursements made under the order made on 18<sup>th</sup> January 2017. The certificate of confirmation of grant dated 7<sup>th</sup> September 2016 to be amended accordingly.

**DATED, SIGNED and DELIVERED at NAIROBI this 12<sup>TH</sup> DAY OF MAY, 2017.**

**W. MUSYOKA**

**JUDGE**