



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**SUCCESSION CAUSE NO. 745 OF 1992**

**IN THE MATTER OF THE ESTATE OF GRACE KIGEN LOITAREM (DECEASED)**

**RULING**

1. I am called upon to determine a straightforward application for confirmation of the grant herein. The application is dated 15<sup>th</sup> March 2013. It is brought at the instance of Sheila Chesang Loitarem, a child of the deceased, one of the administrators. She seeks distribution of the estate and accounts from her co-administrator. The co-administrator, Anne Loitarem Osilingi, swore an affidavit on 19<sup>th</sup> April 2013 in response to the application. She concedes that the applicant is the only surviving child of the decedent.

2. The deceased died intestate after the Law of Succession Act, Cap 160, Laws of Kenya, had come into force, and was survived by only one person, a child. The law to govern distribution of her estate should be section 38 which states as follows: -

*‘Where an intestate has left a surviving child or children, but no spouse, the net intestate shall, subject to the provisions of sections 41 and 42, devolve upon the surviving child, if there be only one, or be equally divided among the surviving children.’*

3. The estate herein should accordingly devolve wholly upon the applicant.

4. The applicant asks that the second administrator, Anne Loitarem Osilingi, be ordered to render accounts in respect of rental income that she has been receiving from LR No. 37/265/31 House No. 26 Mai Mahiu Road Nairobi, insurance proceeds that she had received as compensation for the deceased’s motor vehicle KZE 045 and NSSF proceeds received on behalf of the deceased.

5. I note from the record that the second administrator has been in office since 1992. An administrator’s office is one of trust, principally because the property of the dead person vests in her, and she holds the same on behalf of others, the survivors of the deceased as well as the creditors of the estate. For that reason the law has imposed a burden on the administrator to account for her handling of the estate. Rendering of accounts ought to be done as a matter of course.

6. In view of the above, I shall dispose of the application dated 15<sup>th</sup> March 2013 as follows:

**a. That I shall confirm the applicant herein, Sheila Chesang Loitarem, as the sole administrator of the estate herein, the grant on record shall be amended accordingly;**

**b. That the net intestate estate of the deceased shall devolve wholly upon Sheila Chesang Loitarem;**

- c. That Anne Loitarem Osilingi shall render accounts in terms of prayers 2 and 3 of the application dated 15<sup>th</sup> March 2013 within thirty (30) days of the date of this ruling;
- d. Certificate of confirmation of grant to issue accordingly; and
- e. That costs shall be in the cause.

**DATED and SIGNED at NAIROBI this 3<sup>RD</sup> DAY OF MAY, 2017.**

**W. MUSYOKA**

**JUDGE**

**DELIVERED and SIGNED this 5<sup>TH</sup> DAY OF MAY, 2017.**

**M. MUIGAI**

**JUDGE**