

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
SUCCESSION CAUSE NO. 2548 OF 2000

IN THE MATTER OF THE ESTATE OF NDIYEINE OLE SIMEL (DECEASED)

ELIZABETH NAISOI SOIKAN.....1ST APPLICANT

FRIDAH MELLAU SOIKAN.....2ND APPLICANT

VERSUS

PAUL SALAU NTIYOINE.....1ST RESPONDENT

JEREMIAH SIRONET NTIYOINE.....2ND RESPONDENT

RULING

1. The deceased Ndiyeine Ole Simel died intestate on 5th September 1991. He was the owner of land parcel Kajiado/Olchoro Onyore/1713 said to measure 200 acres. The family allowed Rahab Njoki Ndiani (one of the deceased's widows), Jeremiah Sironet Ntiyoine (the 2nd respondent), Paul Salau Ntiyoine (the 1st respondent) and James Parsimei Ntiyoine to take out letters of administration intestate. The respondents and James were some of the children of the deceased. The grant was issued on 31st July 2001 and confirmed on 19th November 2002. The estate was distributed to the beneficiaries. The applicants Elizabeth Naisoi Soikan and Fridah Mellau Soikan were daughters of the deceased's son the late Samson Soikan. In the distribution the 2nd respondent was registered to hold 10 acres in trust for the 2nd applicant until she was 18, and the 1st respondent was registered to hold 10 acres in trust for the 1st applicant until she was 18. In the motion dated 22nd June 2015 the applicants asked for the termination of the trusteeship, now that they are of age, so that they can each benefit from the estate. They sought other prayers. They alleged that the respondents had refused to give them their entitlement. The application was defended and is pending hearing.
2. The applicants filed the present application dated 4th August 2015 seeking to enjoin James Parsimei Ntiyoine, Rahab Njoki Ndiani and Francis Mbaayu Kirrao in the above application. There are other prayers.
3. Joinder is a straightforward request. The proposed 3rd respondent was a surety when the petition was filed, and the 1st and 2nd proposed respondents were beneficiaries of the deceased.
4. I allow prayer 1 of the application (dated 24th August 2015) and ask that the rest of the prayers shall be

heard together with the application dated 22nd June 2015. Consequently, the respondents shall be Paul Salau Ntiyoine (1st respondent), Jeremiah Siromet Ntiyoine (2nd respondent), James Parsimei Ntiyoine (3rd respondent), Rahab Njoki Ndiani (4th respondent) and Francis Mbaayu Kirrao (5th respondent).

5. The respondents have 14 days to respond to the two applications. The matter shall be mentioned on **23rd February 2016** to take a hearing date.

DATED and DELIVERED at NAIROBI this 9TH day of FEBRUARY 2016.

A.O. MUCHELULE

JUDGE