

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

SUCCESSION CAUSE NO. 1917 OF 1996

IN THE MATTER OF THE ESTATE OF DANIEL MACHARIA NJOROGE (DECEASED)

RULING

1. The application dated 27th May 2013 seeks the rendering of accounts, payment of rental income collected from some of the assets into a joint account or be deposited in court, and periodic payments to the beneficiaries of a portion of the said income.

2. I have carefully gone through the record and noted that there are no replies or responses to the application by the respondents. I have noted too that although directions were given that the said application be disposed of by way of written submissions, the respondents did not file any. I shall therefore treat the said application as unopposed.

3. I note that the orders are sought against administrators. The office of an administrator of the estate of a deceased person is one of trust, which makes the administrator a trustee. A trustee is bound in law to account for the property that they hold in trust. The account should be rendered to the court and to the beneficiaries of the trust.

4. The duty to account on the part of trustees is statutory. It is imposed by the Trustee Act (Cap 167 Laws of Kenya) and the Law of Succession Act (Cap 160 Laws of Kenya) both of which apply with respect to the handling of the estate of a dead person. An account should be a matter of course, whether or not asked for by the beneficiaries.

5. In light of the above, I do hereby-

- a. **Allow the application dated 27th May 2013 in terms of prayers 1 and 3 of the application;**
- b. **Order that the said account shall be rendered in the next thirty (30) days of today's order;**
- c. **Allow prayer 2 of the application; the income to be deposited in a joint interest earning account with a reputable bank or financial institution in the names of all the administrators;**
- d. **Order that the bank account in (c) above shall be opened in the next thirty (30) days of this order; and**
- e. **Order that costs be in the cause.**

DATED, SIGNED and DELIVERED at NAIROBI this 5TH DAY OF FEBRUARY, 2016.

W. MUSYOKA

JUDGE