



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
SUCCESSION CAUSE NUMBER 3203 OF 2014
IN THE MATTER OF THE ESTATE OF JONATHAN KATIMBA NTHWAO (DECEASED)

RULING

The creditors are represented by Emmanuel Sifuna Muchanga through their consents filed in Court when they filed petition for grant of letters of administration for the estate of Jonathan Katimba Nthwao (deceased) who died in September, 2008.

The creditors obtained a grant on 15th March, 2016. Before that, they filed citations to the family of the deceased to accept or refuse the letters of administration intestate. They were all served as confirmed by the affidavit of service filed on 30th April, 2015.

The creditors filed summons for confirmation of grant on 11th October, 2016 and sought that the grant issued on 15th March, 2016 be confirmed. On perusal of the Court file this Court is satisfied that creditors may obtain a grant to the deceased's estate under Section 66 Law of Succession Act Cap 160.

However, with regard to the confirmation of grant, the creditors ought to establish their claim or right to the asset (s) that comprise of deceased's estate.

1. For this Court to consider and grant confirmation of grant, the following information and documents shall be provided in detail by each of the creditors;

- a. **Sale Agreement**
- b. **Payment schedule/Receipts**
- c. **A document of Acknowledgement (Certificate)**
- d. **The acreage of the land purchased**

2. The agents/ vendors/sellers' shall provide the following documents to establish their claim;

- a. **The Memorandum and Article of Associations of the selling Company.**
- b. **The Directors and Shareholders of the Company**
- c. **The authority to sell the suit property L.R 12715/127**

d. The Title deed showing that the suit property belonged to the deceased Jonathan Katimba Nthwao and not (Syokimau Farm Limited) if so to establish the relationship and/or ownership of the said property from the deceased to and/or Syokimau Farm Limited to Mbukuni Holdings Limited.

3. The family of the deceased shall be served with the summons for confirmation, application and they shall provide written consents or file protests to the summons for confirmation of grant.

The family of the deceased shall provide the deceased's death certificate which is a requirement for the petition to be filed and gazetted and the grant to be issued.

Unless and until these conditions are met and/or the creditors establish their claim to the estate and the land selling Company confirms through evidence that they paid the deceased the purchase price for the said land as per agreement for sale or provide any other reasonable explanation the grant is not confirmed.

DELIVERED, SIGNED & DATED AT NAIROBI THIS 10TH DAY OF NOVEMBER, 2016

M. W. MUIGAI

JUDGE