

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

SUCCESSION CAUSE NO. 219 OF 2011

NTHIKE MULWA APPLICANT

VERSUS

**1. JOHN MUTETI MULWA
2. ESTHER NDUKU MULWA..... RESPONDENTS**

R U L I N G

1. The application dated 13/3/2012 seeks orders that the grant of Letters of Administration intestate made to **John Muteti Mulwa** and **Esther Nduku Mulwa** on 17th February 2012 be revoked.
2. According to the affidavit in support and the supplementary affidavit sworn by the Applicant, **Nthike Mulwa** is a co-wife to the deceased, **Naumi Mulwa Nzeki**. It is the Applicant's assertion that the two parcels of land the subject of this cause, that is **LR 559** and **LR 566 Ikoleni Adjudication Section** were jointly owned by the deceased and herself. The Applicant's complaint is that the Respondents obtained the Grant of Letters of Administration without her knowledge.
3. In opposition to the application, the Respondents filed a replying affidavit. It is the Respondents' contention that as children of the deceased whose spouse is also deceased they rank in priority in administering their late mother's estate.
4. During the hearing of the application, both parties relied on their affidavits.
5. I have considered the application and the reply to the same. If the Applicant's position is correct, then the Applicant ought to have been reflected as a liability in the estate of the deceased. At this juncture, this court is not able to tell if the Applicant is a joint owner of the property in question.
6. Consequently, I order that the Respondents do file a summons for confirmation and serve the same on the Applicant. The Applicant is at liberty to file an affidavit in protest. Orders accordingly.

.....

B. THURANIRA JADEN

JUDGE

Dated and delivered at Machakos this 5th day of February 2015.

.....

B. THURANIRA JADEN

JUDGE