



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

SUCCESSION CAUSE NO 566 OF 2013

IN THE MATTER OF THE ESTATE OF EPHANTUS WAWERU MUBIA *alias* WAWERU MUBIA-  
DECEASED

JOSEPH MUBIA WANDETO.....PETITIONER

VERSUS

1. LOISE WAMAITHA WAWERU

2. SAMUEL MWANGI WAWERU

3. ESTON WANDETO WAWERU.....RESPONDENTS

RULING

1. This is a petition under **Rule 14** of the **5<sup>th</sup> Schedule** of the **Probate and Administration Rules** made under the **Law of Succession Act, Cap 160**. The Petitioner seeks a limited grant of letters of administration to be granted to the Petitioner's nominee, **Loise Wamaitha Waweru**, so that she may be subsequently substituted in place of the deceased defendant in **Murang'a LDT Case No 131 of 2006**. The Deceased in this petition is the deceased defendant in the aforesaid case. It appears that the Petitioner herein is a beneficiary of a decree passed in the said Murang'a LDT Case No 131 of 2006. This is apparent from the written submissions filed herein on 03/06/2014 on behalf of the Petitioner.

2. The aforesaid Nominee, Loise Wamaitha Waweru (1<sup>st</sup> Respondent) has opposed the petition by **grounds of opposition dated 11/02/2014**. The single point taken in those grounds is that **LDT Case No 16 of 2007** has abated as the defendant therein died on 10/04/2012. I do not see how LDT Case No 16 of 2007 concerns this petition. The case mentioned by the Petitioner is Murang'a LDT Case No 131 of 2006 which, as already observed, is **not** pending trial and determination as there is already in place in that case a decree which apparently is only awaiting execution. Again it appears from the Petitioner's written submissions that the said decree is far from being 12 years old. The Nominee did not file any replying affidavit. As for the other two Respondents, there is no reason or necessity readily apparent why they were joined in this petition.

3. Directions for filing of written submissions were made on 09/04/2014. The Petitioner filed his submissions on 03/06/2014. The Nominee did not file any submissions.

4. I consider that the petition herein has merit, and I will allow the same. A limited grant of letters of administration under Rule 14 of the 5<sup>th</sup> Schedule of P & A Rules in respect to the estate of the Deceased herein **Ephantus Waweru Mubia** shall issue forthwith to the Nominee **Loise Wamaitha Waweru**. It is so ordered. I make no order as to costs.

DATED AND SIGNED AT MURANG'A THIS 2<sup>ND</sup> DAY OF JULY 2015

H.P.G. WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 3<sup>RD</sup> DAY OF JULY 2015