

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 763 OF 1997

IN THE MATTER OF THE ESTATE OF PETER MUIGAI RUHIU (DECEASED)

RULING

1. On 1st October 2013 I made the following orders on accounts:-
 - a. *That both administrators shall render accounts with respect to the rents that they have collected from tenants occupying Plots No. 465'A' and 'B' Ongata Rongai;*
 - b. *That Joseph Ruhii Muigai shall give an account of all the court cases pending touching on any of the assets of the estate providing copies of the pleadings relating to such cases and a status report on the cases; and*
 - c. *That the said accounts shall be rendered within thirty (30) days of the date of this ruling.*
2. The matter was thereafter mentioned on 14th July 2014, by which time none of the administrators had filed accounts as ordered. I thereafter fixed the matter for further mentions on 6th October 2014, 21st October 2014, 17th November 2014 and 6th February 2015.
3. Both sides have filed accounts in compliance with Order 2(a) of the ruling dated 10th October 2013. The account by Leah Wanjiru Muigai covers the year 2010 and January to August 2011, and was filed in court on 31st October 2014. The account by Ruhii Muigai was filed on 31st October 2014 and covers the period April 2011 to December 2011.
4. With respect, these statements of accounts are inadequate. The two administrators were appointed on 16th July 1997. According to Section 80(2) of the Law of Succession Act, Cap 160, Laws of Kenya, that is the date when their appointments became effective. They are bound in law to account for all the income that the assets of the estate have generated since then. Accounting is a statutory obligation. It is a duty that the administrators cannot run away from.
5. Secondly, financial accounting is not limited to just what was collected as rent or revenue. It extends even to how the moneys so collected have been utilized. The administrators hold an office of trust. They are in a fiduciary position to the beneficiaries with regard to the assets. They must, as trustees, account for every single cent that comes into their hands. The accounts before me do not indicate how the moneys collected over the period stated were utilized.
6. There has been no compliance at all by Joseph Ruhii Muigai with Order 2(b) of the ruling of 10th October 2013. The excuse he gave for not distributing certain assets was that there was pending litigation relating to those assets. Consequently he was ordered to give an account of those cases and their current status. The purported account filed on 31st October 2014 does not say a single word about the said cases.
7. Court orders are made with a view to their being complied with. There would be no point of them being made if the objective is that they are to be ignored. Parties cannot pick and choose which orders to obey or which ones to comply with. The obligation is to comply with all court orders

whether the parties agree with them or consider them to be wrongful or erroneous or even “idiotic.” Failure to obey court orders no doubt has consequences.

8. I give the administrators in the cause thirty (30) days to fully comply with the orders of 10th October 2013. Should they choose to disregard the orders, I shall be left with no alternative but to revoke the grant made to them on 10th July 1997. The matter shall be mentioned on a date to be given in court for compliance.

DATED, SIGNED and DELIVERED at NAIROBI this 2ND DAY OF OCTOBER, 2015.

W. MUSYOKA

JUDGE