

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

SUCCESSION CAUSE NO. 641 OF 2010

IN THE MATTER OF THE ESTATE OF DOMINIC KASONA KALELI (DECEASED)

MUTANU NGUMI MUINDI CITOR

AND

LYDIA NDULU KASONA CITEE

RULING

1. The citation herein was filed by one **Mutanu Ngumi Muindi** on 14/9/10. This was after the Citee, **Lydia Ndulu Kasona**, the widow to the late **Dominic Kasona** failed to petition the court for a grant of letters of administration intestate in the estate of the deceased, **Dominic Kasona**.
2. Subsequent to the filing of the citation, the Citee petitioned the court in **High Court Machakos Succession Cause No. 1027/11**. On 28/11/11 on 10/6/13, the citation was marked as settled.
3. The tussle now is on who should pay the costs of the citation. According to the Citor's advocate, the Citee ought to pay for having failed to take any step despite demand made until the citation was filed. The learned counsel for the Citee argued that there should be no orders as to costs since the Citor is also a beneficiary.
4. Having considered the citation and the submissions of both parties, I am in agreement with the Citor's counsel that if the Citee had acted diligently, no costs of filing the citation would have been incurred. Consequently, I order the Citee to meet the costs of the citation.

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B. THURANIRA JADEN

JUDGE

Dated and delivered at Machakos this 12th day of March 2014.

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JUDGE