



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KERICHO**

**CITATION CAUSE NO.32 OF 2012**

**IN THE MATTER OF THE ESTATE OF KIPTOO ARAP MALULCHI ALIAS KIPTOO ARAP  
MALUNJI- DECEASED**

**SALLY CHEBET MALEL.....CITOR**

**VERSUS**

**STEPHEN CHAMON TOWETT & 13 OTHERS.....CITEES**

**RULING**

**Sally Chebet Malel**, the Citor herein, took out citation proceedings in which she cited **Stephen Chamon Towett** and his 13 siblings. The Citor invited the Citees to indicate whether or not they were willing to apply for a grant of Letters of Administration in respect of the estate of **Kiptoo Arap Malulchi alias Kiptoo Arap Malunji**, deceased.

When served, the Citees filed the replying affidavit of Philip Barusei and expressed their willingness to apply for the aforesaid letters of administration. They argued that the Citor was not entitled to make such an application because she had already been sufficiently provided for by the deceased intervivos hence she no longer has interest. I have considered the material placed before me. It is not disputed that the Citor and the Citees are all children of the deceased. The deceased was married to two wives namely: Tabsabei Malulchi and Rebecca Malulchi. Both widows are dead. The Citor and the Citees all rank equally on priority to apply. Either of them is entitled to apply. There was therefore no need to take out these citation proceedings. What the parties needed to do is to simply apply for the grant and notify the others. I find the citation proceedings to be inappropriate. The citation is ordered struck out. Since the dispute involves siblings, I direct that each one meets his or her own costs.

**Dated, Signed and delivered in open court this 14th day of March, 2014.**

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**J.K.SERGON**

**JUDGE**

**In the presence of:**

Mr. Langat holding brief for Mr. Wambenyi for Citor

N/A for Mr. Koske for Citees