



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**SUCCESSION CAUSE NO. 62 OF 2000**

IN THE MATTER OF THE ESTATE OF ESHA MOHAMED ADAM (DECEASED)

AND

IN THE MATTER OF AN APPLICATION BY CESTUI QUE TRUST/BENEFICIARIES OF THE ESTATE OF ESHA MOHAMED ADAM (DECEASED) FOR LEAVE TO APPEAL FROM AN ORDER OF COURT MADE ON 20/6/2014

BETWEEN

- 1. ZEINAB KHALIFA**
- 2. RAHIMA KHALIFA**
- 3. FATUMA MOHAMED SAID**
- 4. SALIM MOHAMED SAID**
- 5. ABDULKARIM MOHAMED SAID.....BENEFICIARIES**

AND

- 1. ABDULRAZAK KHALIFA**
- 2. OMAR MOHAMED SAID.....RESPONDENTS**

**RULING**

I have perused this file and I have considered the stage which this matter has now reached. Although the court had delivered its ruling on sale of the property on 8<sup>th</sup> March, 2014 Mr. Kimani representing some of the beneficiaries has filed a summons dated 3<sup>rd</sup> July, 2014 seeking leave to appeal the consent reached by the parties on 20<sup>th</sup> June, 2014. This is a succession matter and in the interests of justice I feel that no beneficiary should be turned away without being accorded a hearing. Therefore I do hereby '*suo moto*' stay the proceedings. I further stay any sale and/or distribution of the estate property pending the hearing and determination of the summons dated 3<sup>rd</sup> July, 2014. Each party to meet its own costs. Hearing dates for the said summons to be taken in the registry.

**Dated this 7<sup>th</sup> day of November, 2014.**

**M. ODERO**

**JUDGE**

**In the presence of:**

Mr. Hayanga for Applicant

Mr. Odongo for Respondent

Mr. S. M. Kimani for the Beneficiaries

Court Clerk Mutisya