

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYERI

MISC. CASE NO. 27 OF 1990

**IN THE MATTER OF THE ESTATE OF WANJAMA MUKERE
JOYCE MUTHONI WANJAMA APPLICANT**

RULING

Joyce Muthoni Wanjama, the applicant herein, has taken out the petition dated 12th May 2010, in which she sought to be given letters of administration intestate in respect of the estate of Wanjama Mukere, deceased. The petition is supported by the affidavit of the applicant.

Basically, the applicant is seeking for the aforesaid letters to enable her administer the unadministered assets. The applicant averred in her affidavit that letters of administration intestate in respect of the estate of Wanjama Mukere, deceased was made to Anthony Michael Wamagutu Wanjama on 27th March 2009. One of the beneficiaries, Benson Wanjama Njeru was given 1.214 Ha to be excised from L.R. No. Tetu/Karaihu/518 as his inheritance from the deceased's estate. It is said that Benson Wanjama Njeru died on 20th December 2009 thus leaving part of the estate unadministered. In order to understand the applicant's application it is important to discover the meaning and import of de bonis non administratis which basically means the assets or property not administered. Such an application is usually made after the first administrator dies or is removed. When the first administrator of an intestate estate dies or is removed, the second administrator is called an administrator bonis non who administers the goods and or property not administered by the previous executor. The application before me is that of the widow of one of the beneficiaries who died before getting his share of the estate. The person appointed herein to administer the estate of Wanjama Mukere, deceased, is one Anthony Michael Wamagutu Wanjama. The aforesaid administrator is not dead. The application therefore is not the one envisaged by law. What is apparent is that the inheritance of Benson Wanjama Njeru, deceased from the estate of Wanjama Mukere, deceased, was not transmitted to Benson Wanjama Njeru, deceased during his lifetime. If well advised, the applicant should be able to take out the relevant proceedings to succeed her late husband to enable her receive the entitlement of the deceased from the estate of Wanjama Mukere, deceased.

In the end I find that the petition is not appropriate in the circumstances. The same is hereby ordered struck out with no order as to costs.

Dated and delivered this 4th day of March 2011.

J.K. SERGON
JUDGE

In court in the presence of Mr. Mugo for the applicant.

J.K. SERGON
JUDGE