

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU

Succession Cause 70 of 1995

IN THE MATTER OF THE ESTATE OF KIPLANGAT KIPTUI [DECEASED]

RULING

This cause is now 14 years old. A grant of letters of administration intestate was issued by this court on 7th December, 2007 and an application to revoke the same filed on 18th December 2007. The application was sited by... The former later changed counsel and filed the present application under a Notice of Motion dated 26th June 2008. The application has been pending for over 1 year now.

The applicant prays that the Hon. Mr. Justice Kimaru's orders be set aside by this court *ex debito justitiae* on the ground that the Honourable Judge lacked jurisdiction and that his Lordship's decision of 7th December, 2007 is a nullity and amounts to nothing. This court raised the issue of the competence of the application with the counsel for the applicant and expressed the view that this court considers itself not suited to entertain the application being in the nature of appeal. For that reason the applicants have now asked the court to disqualify itself. I am of the view that no proper cause has been disclosed for this court to disqualify itself. For reasons best known to the applicant it appears to this court, quite clearly, that she is not desirous of having this matter concluded with the expediency it deserves and is holding the respondents at ransom. Being of the considered view that the application itself is incompetent, misconceived and an abuse of the process of the court I am inclined to dismiss it, *suo motto*, the applicant having squandered the opportunity given by this court to consider her position and have the application heard, during which time she would have persuaded the court of the merits of application, if any.

In the premises the Notice of Motion dated 26th June 2008 is hereby struck out and accordingly dismissed.

Dated, signed and delivered at Nakuru this 6th day of July 2009

M. G. MUGO

JUDGE