



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

SUCCESSION CAUSE NO.19 OF 2014

IN THE MATTER OF THE ESTATE OF THE LATE FLORAH SHIDAKWA MUTECHI (DECEASED)

MICHEAL SHITSAMA CHIKUKWA.....PETITIONER (DECEASED)

LILIAN MUSANGA MEJA.....APPLICANT

RULING

1. This matter concerns the estate of Florah Shidakwa Muteshi who passed away on 19th January 2014. On 18th March 2014 her son Michael Shitsama applied for Letters of Administration Ad litem. It was said the urgency of “the circumstances” required a limited grant because there was insufficient time to obtain a full grant (see Petition filed on 19th March 2014).

2. The circumstances referred to and relied upon were not set out nor explained. Nevertheless, there were Letters of Administration Ad litem issued to Michael Shitsama on 21st March 2014. Sadly, Michael Shitsama is said to have passed away. The application has exhibited Death Certificate Registration No.0453519 showing that Michael Shitsama Muteshi passed away in Museno on 27th March 2015.

3. The application now before the court seeks to replace Michael Shitsama with a daughter of the deceased Florah Shidakwa, namely LILIAN MUZANGO MESA as administrator AD LITEM. The reason given is that the Petitioner, who is now deceased had filed a *Civil Case No.255 of 2014*. The court is not identified, pleadings are not exhibited, the subject matter of the suit is not identified and as a consequence its existence has not been proved. Further, the reason in failure to apply for a full grant has equally not been explained.

4. In the original petition exhibited a letter from the Senior Assistant Chief of Museno Sub-location the children of the late Florah Shidakwa were listed as:

- 1) Agnes Atamba
- 2) Michael Shitsana Chibukwa
- 3) Lilian Musanga
- 4) Anthony Machunga
- 5) Consolata Mukwilu
- 6) Patrick Ingara

Those members of the family were said to have agreed in the appointment of Michael as administrator.

5. The Chief's letter exhibited to the supporting affidavit now before the court as PMM-2 comes from the office of the Senior Chief Khayega location dated 19th February 2018.

states that after Michael Shitsama Muteshi "died and the only remaining daughter to the deceased is Lilian Musanga Meja of ID/NO.[...] is now official next of kin of the estate of the Florence." The discrepancy between those two versions is abundantly clear but the explanation which one would expect in the application has not been provided.

6. For those reasons this Court cannot be satisfied that:

1. There is still need for letters of administration AD LITEM;
2. The applicant is the only person able to apply;
3. The other family members agree to that consent.

7. It is therefore Ordered that:

- (1) Application dismissed.
- (2) File closed.
- (3) Surviving family of Florah Shidakwa Muteshi to petition for full grant without further delay.

Order accordingly,

Farah Amin

JUDGE

SIGNED AND DATED IN KAKAMEGA ON THIS THE 9TH DAY OF JUNE 2021



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