



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

FAMILY DIVISION

SUCCESSION CAUSE NO. E763 OF 2020

IN THE MATTER OF THE ESTATE OF PIUS KIMANI MWAURA (DECEASED)

AND

IN THE MATTER OF THE PETITION FOR LETTERS OF ADMINISTRATION INTESTATE

JACKSON MIRINGU KIMANI.....1ST APPLICANT/OBJECTOR

NANCY WANJIRU KIMANI.....2ND APPLICANT/OBJECTOR

VERSUS

JOHNSON MWAURA KIMANI.....1ST RESPONDENT/PETITIONER

MOSES KINYANJUI KIMANI.....2ND RESPONDENT/PETITIONER

ELIZABETH WANJIRU KIMANI.....RESPONDENT/PETITIONER

MONICAH NJOKI KIMANI.....RESPONDENT/PETITIONER

RULING

1. Before this Court for determination is the Notice of Motion dated 24th August 2021 by which the Applicants sought the following orders:-

“1. THAT this Honourable court be pleased to order the consolidation of the following citation causes.

(a) HCFP & A No. E1486 OF 2019

(b) HCFP & A No. E763 OF 2021

2. SPENT

3. **THAT both citation causes be heard and determined together.**

4. **THAT the costs of this application be provided for”.**

2. The Application was premised upon **Sections 1A,2B 3A** of the **Civil Procedure Act 2010**, and **Order II Rule 3 (j) (h)** and **Order 51** of the **Civil Procedure Rules** and **Rule 73** of the **Probate and Administration Rules** and all enabling provisions of the Law and was supported by the Affidavit of even date sworn by **MONICA NJOKI KIMANI** the 4th petitioner.

3. The Objectors **JACKSON MIRINGU KIMANI** and **NANCY WANJIRU KIMANI** filed a Replying Affidavit dated **1st October 2021**. The Application was canvassed by way of written submissions.

4. I have considered the application dated **24th August 2021**. The application basically seeks for the consolidation of the citation filed in **HCFP&A No. 1486 of 2019** with the citation filed **JCFP&A No E763 of 2021**.

5. In their Replying Affidavit dated **1st October 2021**, the Objectors indicated that they did not oppose the application for consolidation of the two matters. Counsel for the objectors also indicated to the court that there was no objection to the application for consolidation.

6. The two matters relate to the estate of the same Deceased person namely **PIUS KIMANI MWAURA** and the objectors are two of the children of the Deceased who filed citation against the other children of the Deceased.

7. The Objectors in their Replying Affidavit indicate that the two citations had been overtaken by events as one of the citee’s **Mr Joseph Karanja Njoroge** has passed away. The Objectors however oppose the consolidation of the Application dated **27th January 2021** in Cause No. **1486 of 2019** with citation Cause No **E763 of 2020**.

8. Given that these two matters involve a dispute over the estate of the same Deceased person and given that the parties involved in the two matters are the same, it is my view that consolidation would be the way to go in order to save on courts time, to avoid the risk of conflicting decisions and to ensure expeditious disposal. No party stands to suffer any prejudice by the consolidation of the two files.


9. Accordingly, I allow the application dated **24th August 2021**. I direct that the two Files **P & A E763 OF 2021** be consolidated. The lead file will be **File No P & A 1486 OF 2019**. This being a family matter I make no orders on costs.

DATED IN NAIROBI THIS 25TH DAY OF MARCH 2022.

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MAUREEN A. ODERO

JUDGE

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