



Case Number:	Probate & Admin. Cause No. 107 of 2000
Date Delivered:	20 Dec 2005
Case Class:	Civil
Court:	High Court at Mombasa
Case Action:	-
Judge:	
Citation:	IN RE THE MATTER OF THE ESTATE OF SWALEH KARAMA [2005] eKLR
Advocates:	-
Case Summary:	[RULING] - Civil Procedure and Practice - Law of Succession - Injunctions - Preliminary injunction - Whether succession matter can be appealed to the Court of Appeal - How an injunction pending appeal can be sought - Whether the Civil Procedure and provisions of the Act (Cap 21) apply under the Law of Succession Act - Role of the Court of Appeal Rules.
Court Division:	-
History Magistrates:	-
County:	-
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-

The information contained in the above segment is not part of the judicial opinion delivered by the Court. The metadata has been prepared by Kenya Law as a guide in understanding the subject of the judicial opinion. Kenya Law makes no warranties as to the comprehensiveness or accuracy of the information.

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

Probate & Admin. Cause No. 107 of 2000

IN THE MATTER OF THE ESTATE OF: SWALEH KARAMA

R U L I N G

The application before the court is dated 28/6/05 seeking an injunction pending hearing of an appeal proposed to Court of Appeal.

Application is opposed by the respondents who have filed a preliminary objection arguing that the application is incompetent, misconceived and bad in law and that there is no appeal pending.

Argument was that there is no right of appeal in matters decided in the high Court under Cap 160. The Parliament never intended that succession matters should reach Court of Appeal. Also that Civil Procedure Rules are not applicable save those specifically mentioned. Section 41 is not one of the Rules stated. I am inclined to agree with the Respondents. The rules of Civil Procedure and the provisions of the Act (Cap 21) are expressed excluded under the Succession Act. However anyone seeking injunction pending appeal can invoke the powers granted to court of Appeal under the Court of Appeal Rules.

I therefore find no merit in this application and the same is dismissed with costs.

Delivered and dated at Mombasa this 20th day of December 2005.

J. KHAMINWA

J U D G E

20/12/05

Khaminwa, J

Jason – Court Clerk

Mr. Khatib for Repondent

Ruling read in his present.

KHAMINWA, J



While the design, structure and metadata of the Case Search database are licensed by [Kenya Law](#) under a [Creative Commons Attribution-ShareAlike 4.0 International](#), the texts of the judicial opinions contained in it are in the [public domain](#) and are free from any copyright restrictions.

Read our [Privacy Policy](#) | [Disclaimer](#)