

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT JINJA

MISC. APPLICATION NO. 26 OF 2013
(ARISING FROM ADMINISTRATION CAUSE NO. 95/2013)

1. AYEPEI RYAN STEVEN
2. AYEPEI JOHN PATRICK
(Minors suing through their mother
and next friend Kaej Viola) :::::::::::::::::::::::::::::::::::APPLICANTS

VERSUS

1. ATAI JENNIFER
2. OSIRE SIMON PETER :::::::::::::::::::::::::::::::::::RESPONDENTS

BEFORE: THE HONOURABLE JUSTICE NAMUNDI GODFREY

RULING

The gist of this application is that the applicants through the next friend are seeking to:

- (1) Be recognized as beneficiaries of the estate of the late Ayepei Stephen Odele.
- (2) To secure/protect their interests as beneficiaries of the said estate.

The above position is evident from the Notice of Motion filed by the applicants which seeks:

- Review of the grant of letters of Administration.
- Declaration that the applicants are beneficiaries of the estate.
- Entrusting the shares of the applicants to the applicant's mother.

Without going into details, these are matters that may require

- (i) recalling of the Letters of Administration,
 - (ii) issuance of interim or temporary orders to preserve the estate in the meantime
- while

(iii) rights are being adjudicated upon and determined. The main contention is of course whether the applicants are entitled as beneficiaries not.

It is my view that a Review of letters of Administration is a contentious matter that
5 requires evidence, other than affidavit evidence.

The authorities cited by counsel for the Respondents are relevant to the extent that contentious matters should be dealt with by ordinary suit.

10 If the matter was simple and straight forward, it could have been disposed of by affidavits and the court could have disregarded the objection (See Henry Amanywa Rwabitengye Vrs. Joan Kategaya).

I accordingly uphold the preliminary objection and order that this application is improperly
15 before court and the applicants should proceed by way of filing an ordinary suit.

The applicants will pay the costs of the Preliminary objection.

20 Namundi Godfrey
JUDGE
12/09/2013