



**JUDICIARY
IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
PROBATE CAUSE NUMBER 784 OF 2018**

**IN THE MATTER OF SECTION 43(2) OF THE DECEASED ESTATES
(WILLS, INHERITANCE AND PROTECTION) ACT**

AND

**IN THE MATTER OF THE ESTATE OF JADEN ISAAC
KANYANGALE (DECEASED)**

CORAM: THE HONOURABLE JUSTICE KENYATTA NYIRENDA
Mr. D. K. Itai, Court Clerk

ORDER

Kenyatta Nyirenda, J.

This is an application for grant of letters of administration under the Deceased Estate (Wills, Inheritance and Protection) Act (the “Act”) by Enelesi Kanyangale, the widow of Jaden Isaac Kanyangale (Deceased Person) who died on 29th July 2017.

Letters of administration are granted as prayed for. That said, it is important that the administrators must ensure that the estate of the Deceased Person (Estate) is distributed in accordance with the provisions on intestacy in section 17 of the Act.

The Court is obliged to direct the administrators in this manner because one of the documents in support of the application, that is, a letter by Salima District Council Reference Number LAB10/3 dated 8th September 2017 contains a List of Beneficiaries which proposes that the Estate should be distributed as follows:

<u>Name</u>	<u>Relationship</u>	<u>Age</u>	<u>%</u>
Eneles Kanyangale	Widow	Adult	25
Isaac Kanyangale	Son	Adult	50
Dores Kanyangale	Daughter	Adult	10
Martha Kanyangale	Mother	Adult	15

Section 17 of the Act provides, among other matters, that in the absence of special circumstances, the surviving spouse(s) and child (ren) are entitled to equal shares. Of course, as among the children of the intestate, the age of each child has to be taken into account with the younger child being entitled to a greater share of the property than the older child unless the interests of the children require otherwise: see **In the Matter of the Estate of Charles Enos Chinkwende (Deceased), HC/PR Probate Cause No. 757 of 2016 (unreported)**. According to this authority, the widow (Eneles Kanyangale) and the two children (Isaak Kanyangale and Dores Kanyangale) are entitled to equal shares. No special reason has been given why the son (Isaak Kanyangale) should get 50% of the estate and the daughter (Dores Kanyangale) should only get 10% of the estate.

As the Applicants are unrepresented, I direct the District Commissioner for Salima District to ensure that he or she takes note of the cited authority and advises the administrator of the Estate accordingly. For this purpose, I also direct that a copy of this Order should be served on the District Commissioner for Salima.

Before resting, I wish to reiterate that it is of cardinal importance that the Estate should be administered (including its distribution) in terms of the Act. As a matter of fact, this requirement applies with equal force to the administration of any estate falling within the ambit of the Act.

Pronounced in Chambers this 25th day of March 2019 at Lilongwe in the Republic of Malawi.



Kenyatta Nyirenda
JUDGE