



**KENYA SCHOOL OF LAW  
PROBATE & ADMINISTRATION  
ACADEMIC YEAR 2023/2024  
CASE LAW**

**i. CUSTOMARY LAW MARRIAGES**

1. In the Estate of Peter Simel Muse Lengakah  
S. C. No. 12 of 2018 H. C. of Kenya at Kajiado Judge R. Nyakundi

**ii. TESTAMENTARY CAPACITY (SECTION 5 OF LSA)**

1. Timbury –v- Coffee(1941) 66 CLR P.277
2. Banks –v- Goodfellow (1870) L.R. 5 QS P. 549
3. Battan Singh –v- Amirchand (1948)
4. Stevens –v- Vancleve 4 Washington P. 267
5. Harwood –v- Baker {1840}3 Moo PC 282
6. In the Estate of Park (1954) CA P. 112
7. In the Matter of the Estate of GKK. Succession Cause No. 1298 of 2011

**iii. FRAUD COERCION IMPORTUNITY AND MISTAKE – (SECTION 7 OF LSA)**

1. Wilkinson –v-Joughin (1866) LR 2 Eq 319
2. Barry –v- Butlin (1838)2 Moo PC P.480
3. Wintle –v- Nye (1959) WLR P 284
4. Tyrell –v- Painton(1894) P 151
5. Wingrove – v- Wingrove (1855) 11 PO P 81

6. Hall –v- Hall (1868)1 P& O P.481
7. Re-Morris (1871) P 62

**iv. FORMALITIES (SECTIONS 8-13 OF L 5 A)**

In the Estate of Bravda (1968)1 W L R P. 479

Privileged Wills – Sections 3 & 9 of L SA

Case Law

1. Re Wingham (1949) WLR – P 187
2. Gathward –v- Knee (1920) WLRP 99
3. Re Jones (1981) 1 ALL ER P 1
4. In B Sarah Hale (1915) 1 IR P 362
5. In B Knibbs (1962) 1 W L R P 852
6. In the Estate of Ada Stanley (1916) P 192

**REFERENCES**

**The Law of Succession Act Sections 17 – 21**

**Barry & Clark – 13<sup>th</sup> Edition**

**CASE LAW**

1. Cheese –v-Lovejoy (1877)CA
2. Re Jones (1976) Ch 200 CA
3. In the Estate of Southerden (1925) C A P 177
4. Marsh –v- Marsh (1860)

## **V. Construction of Wills**

### REFERENCES:

1. The law of Succession Act Section 22, Schedule 1
2. Barry Clark – 13<sup>th</sup> Edition

### Case Law

1. Perrin –v- Morgan (1943) AC All ER P 399
2. Ralph –v- Carrick (1879) 11 Ch 0 P 873
3. Abbot –v- Middleton (1858) & HL C P 68