**Hadija v Iddi**

**Division:** High Court of Kenya at Mombasa

**Date of judgment:** 25 October 1973

**Case Number:** 85/1972 (19/74)

**Before:** Sir Dermot Sheridan J

**Sourced by:** LawAfrica

*[1] Probate and Administration – Limited grant – For purpose of action against deceased – Grant may*

*be made when no suit pending – Indian Succession Act* 1865, *s.*222.

**Editor’s Summary**

The defendant was appointed the personal representative of a deceased driver against whom a claim was to be made. The plaintiff filed suit praying that the issue of letters of administration be set aside, and argued that representation might be granted only when there was a pending suit. The defendant contended that the section applied both where a suit was pending and also when one was to be filed.

**Held –** an appointment may be made even when there is no suit pending (*Gibbs v. Roy* (7) followed).

Case dismissed.

**Cases referred to Judgment:**

(1) *In re Elizabeth Wensley* (1882), 7 P.D. 13.

(2) *Secretary of State for Foreign Affairs v. Charlesworth, Pilling*, [1901] A.C. 373.

(3) *In the estate of A. B. Simpson*, [1936] P. 40.

(4) *Khotodad v. Bai Jerbhai* (1938), 62 Bom. 64.

(5) *In the goods of Knight*, [1939] 3 All E.R. 928.

(6) *Said Bin Seif v. Shariff Mohamed Shatry* (1940), 19 K.L.R. 9.

(7) *Gibbs v. Roy*, 85 C.L.J. 280.

(8) *Mandavia v. Rattan Singh*, [1968] E.A. 148.