



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NO. 196 OF 1993

IN THE ESTATE OF THE LATE BENJAMIN KIPKORIR TANGUS (DECEASED).

JANET CHERONO RONO.....APPLICANT/PROTESTOR

VERSUS

GRACE TANGUS.....1ST PETITIONER/RESPONDENT

REBECA TANGUS.....2ND PETITIONER/RESPONDENT

RULING

1. This is a ruling on application dated 18th February 2020 seeking to revoke and/or annul grant of letter of administration issued to the respondents on 8th March 1994 and confirmed on the 27th July 1995. Grounds on the face of the application are that the proceedings to obtain grant were defective in substance and that grant was obtained fraudulently by making false statement and by concealment of material facts.
2. The application is supported by affidavit sworn by the applicant. She averred that the deceased married three wives her being one of the wives. She added that she got married to the deceased in the year 1980 and has been living in the deceased's parcel of land L.R. NAKURU MUNICIPALITY BLOCK 24 /1248 and that she sired 7 children with the deceased listed in paragraph 9 of her supporting affidavit.
3. She further averred the respondents who are her co-wives secretly filed this succession cause without informing her. She averred that the respondents are unlikely to suffer any damage or loss as she (applicant) resides in the parcel of land herein with her 7 children and that they have a right to the estate of the deceased.
4. Directions to proceed by way of *viva voce* evidence were given on 15th July 2020. On 10th November 2020 when the matter came up for hearing, counsel for the applicant informed the Court that despite the respondents being served with the application, they never filed response.
5. The applicant testified that she got married to the deceased **Benjamin Kipkorir Tangus** in 1983 under Kipsigis Customary Law and were blessed with 7 children. She said at the time she got married to the deceased, he already had two wives **Rebeca Tangus** and **Grace Chepkorir Tangus**, the two respondents herein. She said her two co-wives reside at Kabaruso in Bomet.
6. She stated that the respondents never involved her when they filed this succession cause and prayed that the Grant be revoked. She said L.R.NO. NAKURU MUNICIPALITY BLOCK 24 /1248 is in Kaptembwa and she has lived in it since 1984 with the deceased until when he died in 1991 and that he used to visit the other two wives in Bomet. She said the land was registered in the name of the deceased before succession cause was filed but is now registered in the name of **Samuel Kipkemoi Kerich**. She said it was transferred to him by petitioners after succession; but she is still living in the land with her children.
7. The applicant urged the Court allow this application and give her the land.
8. The applicant further stated that **Richard Kiptoo Tangus** who is a brother to the deceased herein recorded a statement confirming that she was the wife of the deceased and that he had 3 wives married under Kipsigis Customary Law; and has mentioned the applicant's children in her statement. She urged Court to consider her brother in-law's statement.

ANALYSIS AND DETERMINATION

9. The applicant has sought revocation of grant issued to the respondents on 8th March 1994 and confirmed on the 27th July 1995 on ground that they never involved her in the succession matter and also proceeded to sell the land registration number which was registered in the deceased's name and where the applicant has lived with her children fathered by the deceased since 1984 to date.

10. As per evidence adduced, the land herein was transferred to **Samuel Kipkemoi Kerich** after confirmation of grant but the applicant is still in possession of the land with her children.

11. The respondents failed to file response to challenge applicant's averments despite being served with the application. The applicant's averments therefore remained unchallenged.

12. From the foregoing, I find that sufficient ground has been established to warrant revocation of grant herein.

13. **FINAL ORDERS**

1. Application dated 18th February 2020 is hereby allowed.

2. Grant issued on 8th March 1994 and confirmed on the 27th July 1995 is hereby revoked.

3. Title deed for L.R. NAKURU MUNICIPALITY BLOCK 24 /1248 to revert to the deceased.

Ruling dated, signed and delivered via zoom at Nakuru This 28th day of January, 2021

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RACHEL NGETICH

JUDGE

In the presence of:

Jenifer - Court Assistant

Mr. Olonyi counsel for the Applicant

No appearance by the respondents