



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 2281 OF 2014

GICHERU WAWERU WAHINYA

FRANCIS NDUNGU WAWERU..... APPLICANTS

VERSUS

ROBERT THIONGO KARIUKI

LEONARD MUNYUA MBUGUA

BEATRICE WANJIKU NGUHI..... RESPONDENTS

RULING

1. I must say from the onset that I am dismayed by the application dated 23rd February 2021 filed by counsel for the applicant. Firstly, because it is good practice and it behooves a party to a suit or who has any interest in a matter to study the file and particularly any order before filing an application and insinuating the court erred. Secondly, the law requires the cooperation of counsel for the court to deliver expeditious decision and in saving judicial time.

2. The application subject of this ruling seeks this court to review its order of 6th May 2019 purportedly directing inter alia consolidation of Succession Cause No. 2281 of 2014 and 2634 of 2000.

3. The record is clear that order issued by this court on 6th May 2019 stated (quoted verbatim)

“1. The further affidavit be served upon counsel for the Respondent.

2. The application in Succession Cause No. 2634 of 2000 be equally served.

3. The Respondent be at liberty to respond to the application dated 21st February 2019.

4. Further mention on 30th July 2019.

5. File No. 2634/2000 be placed together with this file. (Emphasis added).

6. By consent of parties the estate herein be preserved pending further orders.”

4. There is further a note from **Hon. Mukabi** (D.R then) stating:

“Original records pertaining to P&A 2634 of 2000 retrieved and placed alongside this file.”

5. Consolidation of two suits means combining of the two matters into one for purposes of hearing. Placing a file with another is not synonymous with consolidation but having the file brought to the court’s attention possibly for reference.

6. I need not say more. The record is as clear as can be, save to add that the application is a total waste of time and abuse of court process. It must fail with costs.

DELIVERED AND SIGNED AT NAIROBI THIS 30th DAY OF SEPTEMBER, 2021.

.....

ALI ARONI

JUDGE