

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERUGOYA

MISC. SUCCESSION CASE NO. 10 OF 2017

JANE NJERI MWANGIAPPELLANT

VERSUS

MAINA MBOGO.....1ST RESPONDENT

MAARY NYAMBURA.....2ND RESPONDENT

ESTHER MUTHONI.....3RD RESPONDENT

RULING

1. This matter was filed in this court, as a Misc. application which was seeking an order that this honorable court do order for re-transfer of case number 68 of 2016 Baricho, formally succession cause number 886 of 2013.

By consent of the parties, on 22nd August, 2017 the parties entered a consent that Succession cause number 68 of 2016 at Baricho be transferred to Kerugoya High Court as the orders sought are beyond the jurisdiction of the lower court. That High court having confirmed the grant in the matter, power to revoke the confirmed grant rest with it and not the lower court.

2. On 12th November, 2018 the parties agreed to proceed by way of written submission, the problem is that the parties proceeded to file submissions in this Miscellaneous application which had already been finalized, once the parties recorded a consent to re-transfer case number 68 of 2016 Baricho, formally succession cause No. 886 of 2013 Kerugoya High Court to this court.

3. All the submissions have been filed in this Misc. File No .10. of 2017, which has no record of the lower court including summons for revocation of grant dated 20th August, 2013. The applicant should have moved the court or made an application for the Succession cause file No. 886 of 2013 to be included in this proceeding, as there is no application for revocation/annulment of grant, in Misc. Succession Cause No. 10 of 2017.

4. In the circumstances I direct that the parties do take a mention date in the High Court Succession cause No. 886 of 2013. So that the record can be put in order. The parties to take a mention date by consent.

Dated at Kerugoya this 29th Day of May 2020.

L.W. GITARI

JUDGE