



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

SUCCESSION CAUSE NO. 482 OF 2015

IN THE MATTER OF THE ESTATE OF WAITHAKA KIGO WAITHAKA (DECEASED)

MARY WAMBUI WAITHAKA.....APPLICANT

RULING

1. The deceased Waithaka Kigo Waithaka died intestate on 23<sup>rd</sup> March 1995. He was survived by his widow Teresiah Njeri Waithaka and daughter Mary Wambui Waithaka (the applicant). He left a parcel of land LR No. 14225/162 (survey plan No. 145322 and Title No. 52388) in Kamuthi/Maziwa in the City of Nairobi. On 2<sup>nd</sup> March 2015 the widow petitioned for the grant of letters of administration intestate. She was issued with the grant on 10<sup>th</sup> February 2017. The grant was confirmed on 6<sup>th</sup> March 2018. She inherited the property.

2. On 7<sup>th</sup> June 2019 the widow died. She had entered into a sale agreement with Anne Wairimu Kiarie and Kennedy Mukiri to whom he was conveying two portions LR Nos 14225/162/A and B, and measuring 50ft by 50ft. They were subdivisions of the parcel she had inherited from the deceased. It is clear that the estate had not been formally transmitted to her. She therefore died before she had transferred the two subdivisions to the purchasers.

3. On the basis that the grant to the widow of the deceased has become useless and inoperative on account of her death, the applicant has applied under **section 76** of the **Law of Succession Act (Cap 160)** for revocation. The application was not opposed.

4. The widow was the sole administrator of the estate of the deceased. When she died the grant became useless and inoperative under **section 76(e)** of the **Act (Julia Mutune M'Mboroki –v- John Mugambi M'Mboroki & 3 others [2016]eKLR)**.

5. I will allow the application, and revoke the grant issued to the late Teresiah Njeri Waithaka on 10<sup>th</sup> February 2017 and confirmed on 6<sup>th</sup> March 2018. I issue a fresh grant to the applicant Mary Wambui Waithaka. I direct that a fresh certificate of confirmation does issue to Mary Wambui Waithaka who shall inherit the balance of LR No. 14225/162 (Survey Plan No. 145322 and Title No. 52388) in Kamuthi/Maziwa in the City of Nairobi, and plots A and B in LR 14225/162 contained in the sale agreement signed on 24<sup>th</sup> May 2011 shall be confirmed in the joint names of Anne Wairimu Kiarie and Kennedy Mukiri.

**DATED and DELIVERED at NAIROBI this 22<sup>ND</sup> SEPTEMBER 2020.**

**A.O. MUCHELULE**

JUDGE