



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

SUCCESSION CAUSE NO. 354 OF 2012

IN THE MATTER OF THE ESTATE OF KIMANI GICHUHI -(DECEASED)

AND

HARON KIMANI NGUGI.....APPLICANT

R U L I N G

The application before me is the Summons for Revocation of grant dated 20th November 2018 by HARON KIMANI NGUGI. It is brought under sections 76(e), 71 (3) of the Laws of Succession Act and rules 40 and 44 of the P&A rules.

It seeks orders: -

1. THAT the letters of administration issued to MILLIAM NJERI WANYOIKE (deceased) on 1st October 2012 and confirmed on 8th November 2013 be revoked.
2. THAT fresh letters of administration be issued to the applicant herein, HARON KIMANI NGUGI and the same be confirmed six months notwithstanding.
3. THAT this Honourable Court be pleased to allow distribution to remain the same SAVE THAT the portion that devolved to MILLIAM NJERI WANYOIKE (Deceased) to go to the applicant herein HARON KIMANI NGUGI.
4. THAT the costs of this application be costs in the cause.

It is supported by the affidavit of Haron Kimani Ngugi sworn on 20th November 2018 and the annexure thereto.

From the record, Kimani Gichuhi died on 16th March 1982. He was survived by his daughter Milliam Njeri Wanyoike and left his estate Loc 17/Iganjo/370. From the letter from the chief it appears that he had sold part of his land to Edward Mwangi Kamande.

Milliam applied for and was issued with grant of letters of confirmation of grant on 8th November 2013 where the estate was distributed between her and the purchaser.

However, she died on 31st July 2014 and Haron Kimani Ngugi obtained Letters of administration ad litem for her estate on 5th March 2018. It is on the strength of that grant of letters of administration ad litem that he seeks to have the grant revoked.

I have considered the application, the supporting affidavit, and the letter of the chief dated 21st February 2019 from Kamahuha Location stating that he Haron Kimani Ngugi is her only son, to take over as administrator.

Section 76(e) of the Law of Succession Act provides that grant may be revoked if it has “*become useless and inoperative through subsequent circumstances*”. In this case it has become useless and inoperative because of the demise of the administrator. Hence the application for revocation is merited and is allowed.

The applicant also seeks orders under Section 71 (3) of the Laws of Succession Act –that the grant be confirmed ‘*before the expiry of 6 months*’ from the date of the grant. However, this is only applicable where the court is satisfied *inter alia* that: -

- a) There is no dependant, as defined by s.29 of the deceased or that the only dependants are of full age and consented to the application.

b) That it would be expedient in all circumstances of the case to so direct.

I have perused the limited grant issued to the applicant, it merely allows that he be appointed as administrator of the estate of Milliam and not as her sole heir. Those are two different things. The court does not know at this stage whether there are other beneficiaries to Milliam's estate.

Hence the orders I will grant are as follows: -

i) The grant of letters of administration intestate issued to Milliam Njeri Wanyoike with respect to the estate of Kimani Gichuhi (deceased) on 1st October 2012 and confirmed on 8th November 2013 is and is hereby revoked.

ii) A fresh grant of letters of administration intestate to issue to Haron Kimani Ngugi.

iii) A certificate of confirmation of the grant to issue in the following terms: **LOC.17/IGANJO/370** to be distributed as follows:

a) 1.2 Acres to Edward Mwangi Kamande.

b) 3.4 acres to Haron Kimani Ngugi to hold as the administrator of the Estate of Milliam Njeri Wanyoike.

iv) No order as to costs.

Dated, delivered and signed in open court at Nyeri this 18th day of March 2019.

Mumbua T. Matheka

Judge

In the presence of:-

Court Assistant: Juliet

Haron Kimani Ngugi

Edward Kamande

Mumbua T. Matheka

Judge

18/3/19