



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 651 OF 2014

IN THE MATTER OF THE ESTATE OF MWONGO GAKIRA (DECEASED)

VERONICA KARWITHA & ANOTHERPETITIONERS

VERSUS

JANET GACEERI KAAIAPPLICANT

RULING

1. This is a ruling on a summons by the applicant dated 18th February, 2019. The same is brought pursuant to **sections 47, 74 and 76 of the Law of Succession Act CAP 160 Laws of Kenya and Rules 43 and 73 of the Probate and Administration Rules.**
2. The applicant seeks orders that the grant issued to **Veronica Karwitha and Prisila Karambu** on 29th May, 2018 be revoked and the same be issued to her or in the alternative, the Executive Officer in charge of Meru Law Courts signs all the relevant documents to ensure implementation of the grant. She also sought that the names of **Angeline Nkatha and Delefinia Rigiri** be rectified to **Jerica Nkatha Nkando and Derevina Rigiri M'Mwenda**, respectively.
3. The grounds upon which the application was grounded upon were in the body of the application and the applicant's supporting affidavit sworn on 18th February, 2019. It was contended that the administrators had refused or failed to implement the grant and they are actively engaged in intermeddling with the estate by selling parts of the land. That the administrators had threatened the other beneficiaries to cede part of their own shares to them in order to implement the grant.
4. The applicant was supported by **Derevina Rigiri M'Mwenda, Jerika Nkatha Nkando, Jane Rose Kathure and Elizabeth Kendi** who swore affidavits to that effect on 18th and 27th February, 2019, respectively.
5. The application was opposed by **Veronica Karwitha M'Mwongo** vide her affidavit sworn on 4th March, 2019. She denied the allegations made against her and stated that she was expeditiously pursuing the implementation of the grant. That when she engaged the surveyors, it emerged that the acreage of the land was small on the ground as compared with the acreage on the title. That the other sisters were demanding that the estate be shared equally among all the children of the deceased which had complicated the matter.
6. I have considered the affidavits on record and the submissions of Learned Counsel. Revocation and/or annulment of a grant is provided for under **Section 76 of the Law of Succession Act**. One of the grounds for revocation is where an administrator delays in implementing the grant.
7. According to the applicant, who was supported by the other beneficiaries, the administrators had failed to implement the grant and were intermeddling with the estate. This was denied by one of the administrators.
8. I would have been very slow to interfere with the status quo were it not for the response by **Veronica Karwitha M'Mwongo**. She made averments that were not supported by any evidence. She stated that the acreage of the land was less on the ground as compared to the acreage on the title. She never gave the particulars of the alleged contradicting acreages. She never stated when she discovered this fact. It is not lost of this court that the administrators had been accused of hatching a plot to reduce the shares of the other beneficiaries.
9. The second allegation was that, *some of her sisters were demanding bigger shares*. She did not disclose who these sisters were who wanted to reverse the consent recorded in this court on distribution. The two issues in my view, buttress the allegation that the administrators are unwilling to complete the administration and are engaged in an exercise of procrastination with ulterior motive.
10. It has been stated by courts time and again that, administrators are appointed by courts to administer estates of deceased persons for the benefit of the beneficiaries. It is not a carte blanche power given to such administrators to lord over the beneficiaries. Such administrators are accountable to both the beneficiaries and the court. Once the court is satisfied that an administrator is not acting in accordance with

his/her obligations under the law, the court is enjoined to remove such an administrator.

11. This is why the law allows the court to remove administrators who fail to administer estates expeditiously. Delayed administration of estates leads to unwarranted disputes that wreak havoc in the social fabric of the community. This can only be avoided if the estates are timeously administered and each beneficiary left to lead own life thereafter. Continued delay in administering estates enables administrators to continue having a hold over the lives of the beneficiaries unnecessarily. That won't do.

12. In the present case, the application by the applicant was calling the administrators to account on what they have done since the certificate of grant was issued to them. Instead of giving such an account, **Veronica Karwitha Mwongo** went around making wild allegations that were not substantiated. The procrastination in the administration of the subject estate must come to an end. Indeed, **Prisila Karambu**, the co-administrator broke ranks with **Veronica Karwitha** and supported the application. To my mind, a case has been made for the revocation of that grant.

13. On rectification, **Section 74 of the Law of Succession Act** provides for rectification of errors on grants. The applicant seeks that the names of **Angeline Nkatha and Delefina Rigiri** be rectified to appear as written in their national identity cards as **Jerika Nkatha Nkando and Derevina Rigiri M'Mwenda**, respectively. **Elizabeth Kendi** also stated that she wished her name be rectified to **Elizabeth Kendi Stephen** as appears in her national identity card.

14. It is clear that there are errors in the names of the said beneficiaries of which rectification ought to be effected.

14. Accordingly, I allow the application and make the following orders:-

- a) the grant issued to **Veronica Karwitha Mwongo** and **Prisila Karambu** on 2nd March, 2015 be and is hereby revoked.
- b) a fresh grant hereby issues forthwith to **Janet Gaceri Kaai**.
- c) the Certificate of grant is hereby rectified whereby the names of **Angeline Nkatha, Delefina Rigiri and Elizabeth Kendi** be rectified to **Jerika Nkatha Nkando, Derevina Rigiri M'Mwenda** and **Elizabeth Kendi Stephen**, respectively.
- d) the implementation of the grant herein be completed within the next 60 days.

DATED and DELIVERED at Meru this 14th day of March, 2019.

A. MABEYA

JUDGE