



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI**

**(FAMILY DIVISION)**

**SUCCESSION CAUSE NO 1463 OF 2014**

**IN THE MATTER OF THE ESTATE OF JOHN NJENGA KARIUKI (DECEASED)**

**DAVID WAWERU.....APPLICANT**

**VERSUS**

**ELIZABETH WANJIKU NJENGA.....RESPONDENT**

**JUDGMENT**

1. The deceased in this matter John Njenga Kariuki died in testate on the 1<sup>st</sup> of October 2013 at Mwimuto-Kabete. He left behind two widows Margaret Wanjiru and Elizabeth Wanjiku.

2. On or about the 25<sup>th</sup> of November 2013 Elizabeth Wanjiku moved this court for grant of letters of administration as widow and listed herself, **Peter Thairu Njenga, Anastacia Waithira Njenga, Patrick Kariuki Njenga and Eunice Wahu Wairuri** as survivors of the estate of the deceased.

3. She listed assets and no liabilities. The assets listed were:

- i. L.R. No. Kabete/Mwimuto/T.121**
- ii. L.R. No.Kajiado/Kaputiei-North/39427**
- iii. L.R. No.Kajiado/Kaputiei-North/39423**
- iv. L.R. No.Kajiado/Kaputiei-North/39424**
- v. L.R. No.Kajiado/Kaputiei-North/39425**
- vi. L.R. No.Kajiado/Kaputiei-North/39426**
- vii. L.R. No.Kajiado/Kaputiei-North/39427**
- viii. Account No.0020190997275 Equity Bank**
- ix. L.R. No.Kajiado/Kaputiei-North/39425**

4. A grant was issued on the 7<sup>th</sup> March 2014, confirmed and properties distributed to Elizabeth Wanjiku and her off springs on the 7<sup>th</sup> of October 2014.

5. What followed was an application dated 7<sup>th</sup> October 2015 by David Waweru seeking for the grant issued and confirmed on 7<sup>th</sup> of October 2019 cancelled and annulled on grounds that the same was obtained fraudulently.

6. There was an admission by Elizabeth that she had learnt that her husband had another wife before her and there were children from the union. She further confirmed that she met them at the husband's burial and in a meeting held a few months later.

7. Evidence on record is that Elizabeth was known to the first wife's children as they used to visit the deceased at their home in Mwimuto, further that both wives had lived in the same place before Margaret moved to Nyahururu.

8. In her evidence Elizabeth introduced a note which she alleged carried the deceased instructions. It is instructive that the note was never brought to the attention of the committee that met with the family a few months after the deceased died. It is not a will nor has it been claimed to be one.

9. Evidently Elizabeth concealed the fact that the deceased had another family, and based on the above concealment she had the property distributed to herself and her family.

10. For the foregoing reasons the grant issued on 7<sup>th</sup> March 2014 and confirmed on 7<sup>th</sup> October, 2014 must of necessity be annulled and cancelled and all properties restored back to the name of the deceased.

11. The court further orders that details of the amounts that were held at Equity bank made available to the court for further direction.

12. Having so annulled the grant the two homes should forthwith now appoint two fresh administrators who will proceed to ensure orders issued are complied with. A fresh application for confirmation and fresh proposal for distribution of all properties of the estate be filed within the next 90 days of the date hereof.

**Dated and Delivered in Nairobi on this 19<sup>TH</sup> day of December, 2019.**

.....

**ALI-ARONI**

**JUDGE**