



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**MILIMANI LAW COURTS**  
**FAMILY DIVISION**  
**SUCCESSION CAUSE NO. 1139 OF 2015**  
**IN THE MATTER OF THE ESTATE OF ROBERT**  
**KARANJA MUNGAI (ALIAS MURU) (DECEASED)**  
**JULIA WANJIRU KARANJA.....OBJECTOR/APPLICANT**  
**VERSUS**  
**LUCIA NJERI KARANJA.....PETITIONER/RESPONDENT**  
**RULING**

1. The deceased Robert Karanja Mungai alias (Muru) died intestate on 28<sup>th</sup> February 2015 at Ndumberi. According to the chief's letter dated 7<sup>th</sup> May 2015, the deceased was survived by the following beneficiaries:-

1<sup>st</sup> house

- a) Julia Wanjiru Karanja – widow (the applicant);
- b) Mary Wanjeri Karanja – daughter;
- c) Joseph Kaberere Karanja – son;
- d) Zipora Wanjiru Karanja – daughter;
- e) Charity Njoki Karanja – daughter; and
- f) Francis Mungai Karanja- son.

2<sup>nd</sup> house

- a) Lucia Njeri Karanja – widow (the respondent);
- b) Mary Wambui Karanja – daughter;
- c) Francis Mungai Karanja – son;
- d) Anna Wangui Karanja – daughter;
- e) Stephen Kariuki Karanja – son;

- f) Samuel Kiambuthi Karanja - son;
- g) Peter Mwaura Karanja – son; and
- h) Geoffrey Kagwanja Karanja – son.

2. The following assets were listed to comprise the estate of the deceased:

- a) 5/12 share, L.R No. 209/136/100 Nairobi (Kilome House);
- b) Plot No. 71/JKIA/Embakasi in Komarock Development Company Limited, Land No. L.R. Block 7149/11/R;
- c) Land title No. Ruiru East/ Juja East Block 2/3920;
- d) Shares and 1 acre parcel of land at Embakasi Ranching Company Limited;
- e) Land Title No. Ndumberi/Ndumberi/2335 (Map sheet No.8)-0.244 ha;
- f) Land title No. Ndumberi/Ndumberi/2297 (Map sheet No. 8 and 9) (0.324 ha);
- g) Bima shares;
- h) Shares in Ndumberi Farmers Company Limited;
- i) Motor vehicle registration number KBD 310K;
- j) Motor vehicle registration number KSV 583;
- k) Bequest of Gema Holdings Limited shares and other properties from Mungai Kiambuthi deceased; and
- l) Bequest of other properties from Mungai Kiambuthi (deceased).

3. On 11th November 2015 the respondent Lucia Njeri Karanja petitioned this court for the grant of letters of administration with will annexed. The applicant together with her children filed an objection to the petition on 10<sup>th</sup> December 2015 challenging the validity of the will annexed and requesting that the grant of letters of administration be made to both widows of the deceased. The objection was, however, never prosecuted. The grant was issued to the respondent on 6<sup>th</sup> September 2016 and is pending confirmation.

4. On 23<sup>rd</sup> May 2017 the applicant brought an application under **section 76** of the **Law of Succession Act (Cap 160)** and **Rule 44** of the **Probate and Administration Rules** for the revocation of the grant. Her case was that the respondent used a forged will to petition the court for the grant, and that she together with her children objected to the petition. She argued that the letters of administration herein were obtained irregularly without hearing the objection which was already on record, and that if the respondent remains as the sole administrator of the estate, the applicant together with her children will be disinherited yet they are beneficiaries of the estate of the deceased.

5. The respondent filed grounds of opposition together with submissions to oppose the application. She stated that the applicant was served with citations to apply for a grant of letters of administration after which the applicant filed appearance to the citation but has never petitioned the court for a grant. She argued that the applicant has never filed a valid objection to her petition as the objection was filed prematurely before the petition was gazetted. She further stated that when the matter came up for directions on 11<sup>th</sup> May 2016, the applicant failed to attend court and as a result the court ordered that the petition be gazetted, and that the applicant did not file their objection within the 30 days after the petition was gazetted, and it was on that basis that the court issued the grant to the respondent.

6. The respondent attached a copy of the Will which she says the deceased left. The alleged Will was undated and did not appoint an executor. The Will acknowledged that both the applicant and the respondent were wives of the deceased. However, no provision was made for the applicant and her children. According to the applicant the Will is forgery as the deceased had no capacity to make it.

7. Under **section 66** of the **Act** the applicant was ranked in the same degree to the respondent in terms of applying for letters of administration in respect of the estate of the deceased. Under **rule 26(1)** of the **Rules** letters of administration ought not to be granted to any applicant without notice to every other person entitled in the same degree as, or in priority, to the applicant. While I note that the applicant was included as a beneficiary of the estate of the deceased, there was no renunciation or written consent by the applicant in Forms 38 and 39 as provided for in **rule 26(2)** of the **Probate and Administration Rules**. The proceedings to obtain the grant were defective in substance in this regard. The grant is entitled to be revoked. **(In the Matter of the Estate of Eutyachus Wanyoike Njau (Deceased) Nairobi Succession Cause No. 1633 of 2009).**

8. Consequently, I allow the application by the applicant. The grant of letters of administration issued to the respondent in respect of the estate of the deceased Robert Karanja Mungai alias (Muru) on 6<sup>th</sup> September, 2016 is hereby revoked.

9. So that progress is made in respect of this cause, I order that a joint grant be issued in the names of Julia Wanjiru Karanja and Lucia Njeri

Karanja. The administrators, or any of them, shall within 60 days, apply for the confirmation of the grant.

**DATED and DELIVERED at NAIROBI this 17<sup>TH</sup> day of JANUARY 2018**

**A.O. MUCHELULE**

**JUDGE**