



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 799 OF 2009

IN THE MATTER OF THE ESTATE OF KAMAU MUIGAI (DECEASED)

JUDGMENT

1. The court file herein is not complete as it is a skeleton file, but from what I can put together, I note that it relates to a person who died on 5th May 1994. Representation was obtained in Thika CMCS No. 364 of 1997 by Francis Njoroge Kamau, Veronica Wanjiru Njuguna, Nicholas Muya Kamau, Joseph Muigai and Boniface Njung'e Kamau. I have not had sight of the petition lodged in Thika CMCS No. 364 of 1997, but I have seen the summons for confirmation of the said grant. The affidavit sworn in support of that application, by Joseph Muigai Kamau on 15th January 2007, indicates that the deceased was survived by ten (10) children, being Francis Njoroge, Veronica Wanja, Nicholas Muya, Joseph Muigai, Boniface Njung'e, Virginia Njeri, Monica Mukami, James Kang'ethe, Mary Wambui and Stephen Mburu. According to the said affidavit, the deceased died possessed of the following assets –

- (a) Limuru/Rironi/63, 218 and 4478/4
- (b) Yatta B2/Kagondo/77
- (c) Lari/Kirenga/507 and 524
- (d) Ngoliba/Kiambu/27 and 28
- (e) Kahawa/63
- (f) Ngarari/Kandara/585
- (g) Kandara Investment Block 17 /673 and Block 18/396, 397 and 398
- (h) Athena Estate Block 17/252, 271, 331 and 332 and Block 18/68
- (i) Mangu Investments Block 19/858
- (j) Ngoliba Township Plots 53 and 80
- (k) Kilimambogo Township Plots 52 and 54
- (l) Kiambaa Kawainda Plots 4343 and 8260
- (m) Kariobangi Housing 314
- (n) Witeithie Gwaka Plots 16, 17, 18, 110 and 593
- (o) Witeithie Gwaka B – 5 plots
- (p) Kyanjau Plots Nos. 241, 573, 574, 606, 676 and 751
- (q) Kiganjo Farm Plots 1194, 1195 and 1196
- (r) Kandara Investments Farm No. 5179 and 5180

- (s) Kiganjo Plot No. 64
- (t) Mitumbiri Plots Nos. 7134 and 6135
- (u) Mwihiike Farmers Plots Nos. 659 and 670
- (v) Thika Town Uhuru Street 49/472
- (w) Thika Makongeni Phase 9 Plot 303
- (x) Thika Landless Block 24
- (y) Kiganjo Ranching Share Certificate 596
- (z) BBK shares
- (aa) ICDC shares
- (bb) Nyakinyua Investment plots and shares - 2
- (cc) Mangu Investments shares – 10 000
- (dd) Kagondi Farmers shares - 300
- (ee) Kandere Muhethu shares - 400
- (ff) Ali Juja Farmers shares – 100
- (gg) Kenya Grain Growers shares – 100
- (hh) Athena shares - 200
- (ii) Gema Holdings shares – 200
- (jj) Gatundu Mix shares – 100
- (kk) Kirenga Dairy Farmers shares – 350
- (ll) Limuru Dairy Farmers shares – 380

2. The grant in Thika CMCSC No. 364 of 1997 was confirmed on 4th June 2008 and there is a certificate of confirmation of grant to that effect. What is discernible from that certificate is that the estate was distributed to all the children of the deceased save for James Kang'ethe, despite him being allocated several assets in the application for confirmation of grant .

3. It would appear that that confirmation process provoked the filing of the summons for revocation of grant dated 1st April 2009, herein after referred to as the first application. It was brought at the instance of Emma Wanjiku Ndung'u, hereinafter referred to as the first applicant . In her affidavit in support of the said application, sworn on an unknown date in 2009, she claims to have been married to James Kang'ethe Kamau at common law in 1990. It would appear that the said James Kange'the has died, although the applicant has not provided proof thereof. He is said to have had a daughter with the first applicant, called Teresia Wanjiru Kang'ethe, who in turn should be a grand-daughter of the deceased, and therefore entitled to a share in the estate. The first applicant states that her matrimonial home with James Kang'ethe was at the Thika LR No. 4953/472, which is a property in the estate of the deceased herein. She further avers that she separated with James Kang'ethe in 1999 due to irreconcilable differences and she retained custody of the said child. She complains that at confirmation the estate of James Kange'the was not allocated any share from the estate of his father. She has attached to her affidavit a certificate of birth of her daughter, Teresia Wanjiru, dated 16th August 2006, which indicates that she was born on 18th October 1991 and her father was James Kang'ethe Kamau. There is a funeral programme for the burial ceremony of James Kang'ethe Kamau on 2nd November 2007, which indicates that he died on 28th October 2007. The eulogy does not acknowledge the applicant and her daughter, Teresia Wanjiru.

4. There is a reply to the application of 1st April 2009. It was sworn by Joseph Muigai on 9th February 2010. He acknowledges that James Kang'ethe died on 28th October 2007 and that he was his brother. He denies that the applicant was ever married to the said James Kang'ethe and that Teresia Wanjiru was a daughter of the said James Kange'the. He further argues that the said James Kang'ethe died before confirmation of grant and therefore he could not be provided for at distribution of the estate. The other response is by Veronica Wanja Njuguna, a daughter of the deceased. Her affidavit was sworn on 23rd March 2010. Her response is on all fours with that of Joseph Muigai.

5. While the summons for revocation of grant dated 1st April 2009 was still pending, Teresiah Wanjiru Kange'the, hereinafter referred to as the second applicant lodged another summons for revocation of the same grant, vide an application dated 9th March 2011, hereinafter

referred to as the second application. The latter application seeks revocation of the said grant as the proceedings to obtain it were defective and the lower court had no jurisdiction to issue the grant. The second application also asks for accounts. The second applicant avers that the other application had been brought by her mother as she, the second applicant, was then underage. She asserts that she is now of age and has annexed copy of her identity card as proof thereof. She asserts that the lower court had no jurisdiction over the estate.

6. There are replies to the second application by two of the administrators, Veronica Wanja and Joseph Muigai. Their affidavits were sworn on 7th March 2011 and 28th March 2011, respectively. Joseph Muigai is not equivocal as to whether the applicant to the second application was related to James Kang'ethe or not, for he dwells mainly on technical aspects of the said application. He asserts though that the second applicant was not a dependant of the James Kang'ethe, and in any event she cannot use her claim to the estate of James Kang'ethe to stake a claim in the instant estate. On her part, Veronica Wanja argues that the second application has been overtaken by events to the extent that the death of James Kang'ethe occurred before distribution of the estate of the deceased. She also avers that James Kang'ethe never introduced Emma Wanjiku and her daughter to them as wife and daughter, and the two were not reflected as such in the eulogy at his funeral. She further states that Emma was married to a Benson Macharia Mwangi. She further challenges the authenticity of the birth certificate that the alleged daughter was relying upon. She avers further that the alleged daughter was never a dependant of the deceased.

7. Directions were given on 23rd November 2011 for filing of agreed issues. I have perused the file of papers before me; I have only come across a statement of issues by one party, Joseph Muigai, dated 13th December 2011 and filed herein on even date. The issues he has identified are -

- (a) Whether Emma Wanjiku was married to James Kang'ethe Kamau;
- (b) Whether Teresia Wanjiru Kang'ethe was a dependant of James Kang'ethe Kamau;
- (c) Whether the two were entitled to challenge the confirmed grant;
- (d) Whether the grant was confirmed in a process that concealed matter from the court;
- (e) Whether the grant ought to be revoked;
- (f) Whether the lower court had jurisdiction over the matter;
- (g) Whether James Kang'ethe's estate was entitled to a share in his father's estate after he died on 28th October 2007;
- (h) Whether Emma Wanjiku and Teresia Wanjiru were entitled to challenge the confirmed grant of the deceased herein;
- (i) Whether Emma Wanjiku and Teresia Wanjiru are entitled to a share in the estate of the deceased herein; a
- (j) Whether accounts of the estate ought to be taken; and
- (k) Who bears the costs of the application.

8. On 27th November 2012 the application dated 9th March 2009 was fixed, by Wambugu & Company, Advocates, for hearing on 26th February 2013. Come the hearing date it transpired that directions had not been taken on the said application, which I duly gave, essentially relating to service and disposal by *viva voce* evidence. I did not advert to the application dated 1st April 2009, even though counsel for the 5th respondent had raised it, as the applicant in that application had not invited me to give directions thereon. The directions I gave related to that dated 9th March 2011, and the judgment herein shall be limited to that application. It should be noted that the two applications have been brought by different persons, although the two are founded on similar grounds. It could very well be that the applicant in the application in the application date 1st April 2009 has chosen to abandon the same.

9. The oral hearing began on 28th April 2015. The second applicant, Teresia Wanjiru stated that the deceased herein was her grandfather, being the father of her own father. She stated that her father, James Kang'ethe, had survived her grandfather but he also subsequently passed on. She stated when application for confirmation of the grant in respect of her grandfather's estate was lodged in court her father was alive and had been allocated some assets, however when the certificate of confirmation of grant came out, the same did not bear his name, and therefore his estate had been disinherited. She asserted that her name ought to have been substituted for that of her father in the certificate. She asserted that she was born in 1991 and was named after the mother of her father. She testified that the entire estate exceeded Kshs 500, 000, 000.00 in value, which was way beyond the pecuniary jurisdiction of the lower court in probate matters. She stated that she preferred to have the matter transferred to the High Court, and for her to be recognized as a beneficiary. She also said that her father did not have any other children besides her. She said that she had a brother though but whose father was a different man. She said that at the burial of her father, the eulogy did not identify her as a child of the person being buried, but she and her mother were introduced to the crowd. She further said she saw her birth certificate while she was still at primary school.

10. The second applicant's mother, Emma Wanjiku Ndung'u, testified next. She described the deceased herein as her father-in-law on account of him having been the father of her husband, James Kang'ethe Kamau. She said that she had a daughter, Teresia Wanjiru, who was named after her mother-in-law. She stated that although her husband had been listed as one of the beneficiaries in the confirmation application and assigned some property, his name was removed from the certificate of confirmation of grant. She also stated that the value of the entire estate no doubt exceeded the pecuniary jurisdiction of the lower court. At cross-examination, she stated that although she had married James Kang'ethe at customary law there had been no ceremonies, but their uncles and aunts met. She said she lived with him for nine (9) years at Thika. They lived up to 1999 when they parted ways. She stated that she obtained the birth certificate for her daughter in

2006 when the child was in Form One. Her father was then alive but sickly. She said a deoxyribonucleic acid (DNA) test had not been carried out, but she was not averse to one being done. She added that after James Kang'ethe died she was not contacted, but when they got to communicate she was assured that provision would be made for his daughter. She stated that Benson Macharia was not her husband, but described him as her friend, and the father of her son, Mwangi, born in 2004.

11. The case for the respondent's opened on 7th June 2017. Veronica Wanja Njuguna was the first on the stand. She stated that James Kang'ethe was her brother, who never married and had no children. She said she did not know about the second applicant and her mother, and that the two only surfaced after James Kang'ethe died. She said that the two did not play any role in the funeral arrangements for James Kang'ethe and did not even attend the burial. She stated that she had information that Emma Wanjiku was married to a Macharia and they had a child called Dennis. She said that she did not see the second applicant and her mother being photographed at the funeral ceremony of James Kang'ethe and neither did she see them make speeches at the event. At cross-examination, she asserted that she saw the applicant and her mother for the first time in court. She also said that she never saw them at the funeral. When confronted with a photograph taken at the burial, she was able to identify the first applicant standing next to the coffin and the applicant, the second applicant carrying the picture or portrait of James Kang'ethe. She, however, insisted that she did not see the two at the funeral, but still acknowledged that it was the two that she was seeing in the pictures that counsel was showing her indicating that they were in attendance. She stated that after James Kang'ethe died they decided to remove his name from the distribution. She said that her mother was called Teresia Wanjiru Kamau. She conceded that the applicant was called Teresia Wanjiru Kang'ethe, and that she had heard that she was named after her mother. She, however, insisted that she was never brought home as a child of James Kang'ethe nor was her mother brought in as a wife of the latter.

12. Joseph Muigai testified next. He stated that James Kang'ethe was never married at any time, and that he never told them that he had a wife and children. He said that the second applicant and her mother only came forward after James Kang'ethe died. He asserted that the second applicant's mother never lived with James Kang'ethe at any time as he always lived with his mother. He further said that the second applicant's mother did not attend the funeral neither did she come home after James Kang'ethe died. During cross-examination he insisted that he only met the second applicant and her mother in court after James Kang'ethe died. When confronted with photographs allegedly taken at the burial of James Kang'ethe, he first said that he was not sure whether they were taken at that funeral, but he later said he could see persons in the picture who looked like the second applicant and her mother. He also conceded that he could see a framed picture of James Kang'ethe in one of the photographs. He stated that he did not invite the second applicant's mother to address the gathering. He said that as administrators they removed the name of James Kange'the from the certificate of confirmation after he died. He further said that the estate was not income-generating. He conceded that the estate was vast, but could not tell whether the Thika court had jurisdiction or not.

13. At the conclusion of the oral hearing, I directed the parties to file written submissions. There has been compliance as both sides have filed their respective written submissions complete with supporting authorities. I have perused through the submissions and the authorities, and I have noted the arguments advanced.

14. Before I delve into the merits of the application, I shall first consider the technical arguments raised by the 1st, 2nd, 3rd and 4th respondents. Their argument is that the application dated 9th March 2009 is not properly before the court. I would agree with them, but not for the arguments that they advance.

15. There are two causes that relate to the estate of the deceased. One is primary and the other secondary. The primary cause is Thika CMSC No. 364 of 1997, which was initiated by petition for representation, a grant was made and the estate was distributed. The secondary one is the instant cause, HCSC No. 799 of 2009, it was initiated by a summons for revocation of grant. The scope of the secondary cause is severely limited, to determination of the revocation application. Once that is done the secondary cause would be exhausted and the court seized of it rendered *functus officio*, and the result would be that the parties go back to the primary cause to finalise it or proceed with it guided by the final outcome of the secondary proceedings. The High Court proceedings are secondary in the sense that the said court had not issued the grant sought to be revoked as that would still be held in the records of the issuing court, and the mandate of the High Court would largely be limited to what is sought in the originating summons, unless the High Court takes over the primary cause from the lower court and consolidates it with the secondary cause.

16. Going by the record before me, it is plain that the High Court never took over the primary proceedings from the lower court. It is therefore only seized of the secondary cause initiated in 2009 by way of summons for revocation of grant. As the originating pleading for the purpose of the secondary cause is the summons for revocation of grant, there cannot be two summonses for revocation of grant in the same secondary cause, for a cause can only be originated once. Any other summons for revocation of grant can only be initiated in abuse of court of process.

17. This cause, being the secondary cause to Thika CMSC No. 364 of 1997, was properly originated by the summons for revocation of grant dated 1st April 2009, the first application, which was filed herein on 3rd April 2009. Technically no other summons for revocation of grant could be validly filed herein thereafter. Any person desirous of having the same grant revoked could only file another originating summons for revocation in a separate cause, which would thereafter be consolidated with the instant cause. The alternative would be to join the proceedings in the instant cause by taking over the summons dated 1st April 2009, have it amended or file further affidavits to reflect the changed circumstances. Filing another summons for revocation of grant in a cause already originated by a summons for revocation of grant ought really to be out of question. In view of the above, the summons for revocation of grant dated 9th March 2011, the second application, and filed herein on 10th March 2011 is technically improperly on record.

18. I would have struck it out, were it not that we are currently in a new constitutional dispensation, by virtue of the coming into force of the Constitution of Kenya, 2010. Article 159(2) thereof enjoins me to overlook some of these technicalities and to go straight to the meat of the matter. I shall therefore overlook the technical weaknesses of the summons dated 9th March 2011 and shall determine it on its merits. However, as a cause cannot be originated by two independent pleadings, I shall consolidate it with the summons dated 1st April 2009 so as to give it legitimacy.

19. Both applications seek revocation of the grant made in Thika CMSC No. 364 of 1997. The ground cited in the first application is fraud and in the second application is lack of jurisdiction.

20. Jurisdiction of the court to revoke a grant of representation is vested by section 76 of the Law of Succession Act, Cap 160, Laws of Kenya. I need not quote the entire body of the said provision, but I shall summarise its purport. A grant may be revoked in three general circumstances. The first would be where the process of obtaining it was visited with challenges of various sorts, the second is where there are difficulties with the administration process and the last relates to the grant becoming useless or inoperative due to certain circumstances.

21. The applications before me appear to be founded on the first general circumstance, that there were problems with the process of obtaining the grant. The primary challenge appears to be a defect in the proceedings. The applicant in the second application points at lack of jurisdiction of the lower court. It became clear at the oral hearing that the concern was with the pecuniary jurisdiction of the lower court. When the grant was sought in 1997, the lower court, by virtue of the then section 48 of the Law of Succession Act, would have jurisdiction where the value of the estate did not exceed Kshs. 100, 000.00. It is argued that the estate of the deceased was vast, which argument the 4th administrator admits. I note that no valuation of the assets was placed before me and none had been placed before the court in Thika CMSC No. 364 of 1997. However, a cursory look at the assets that I have listed in paragraph 1 of this judgment will point to a vast estate whose value no doubt exceeded Kshs 100, 000.00 as at 1997. The law has changed since, in 2015, through the Magistrates Courts Act No. 26 of 2015, and jurisdiction of the magistrate's court with respect to probate matters expanded to a maximum of Kshs. 20, 000, 000.00 depending on the class of the court. Even then the value of the assets that I have listed in paragraph 1 of this judgment ought to be well in excess of Kshs. 20, 000, 000.00 without having to do a valuation. Clearly, the lower court could not possibly entertain a cause in respect of an estate whose value exceeded what the law provided. Proceedings to obtain grant were defective so long as the lower court was being asked to make a grant over an estate whose gross value exceeded its jurisdiction.

22. What I am about to say was not raised before me, but I have noted that the court appointed five (5) individuals to administer the estate, that is say Joseph Muigai Kamau, Veronica Wanjiru Njuguna, Nicholas Muya Kamau, Francis Njoroge Kamau and Boniface Njung'e Kamau. The law allows appointment of a maximum of four (4) persons. A grant made to more than four persons can only be obtained in proceedings that are defective. For avoidance of doubt, section 56(1)(b) of the Law of Succession Act says as follows –

'No grant of representation shall be made – to more than four persons in respect of the same property.'

23. Although the applicant in the first application does talk about fraud in her pleadings, no positive case of fraud has been cited, and none was brought out at the hearing.

24. It would appear to me though that the applicants' concerns, so far as fraud is concerned, have more to do with the confirmation process and less with the process under which the grant was obtained. The fact that there might have been fraud in the process of obtaining confirmation is not one of the grounds upon which a grant may be revoked. Indeed, section 76 only refers to confirmation as an issue in revocation where the administrator fails to move the court for confirmation within the period that the law allows. It is only then that a person can ask the court to revoke a grant. That would mean that if confirmation is sought within the duration allowed but the process had its own problems, that would not suffice to have the grant revoked. The remedy for such would lie with either seeking review of the orders made on the confirmation application, or, otherwise, file an appeal against the orders made on the confirmation application.

25. There is the issue as to whether the applicants herein are justified to bring the revocation application. The first applicant claims to be a widow of a son of the deceased, while the second applicant claims to be a granddaughter of the deceased. Their status is challenged by the respondents, who take the position that the deceased never married and never had children. The son of the deceased to whom the two claim to be related is himself deceased, so he cannot shed any light on their status. I need to address the question as to whether daughters-in-law and granddaughters of a deceased person can mount applications for revocation of grants in respect of the estate of their deceased father-in-law and grandfather, respectively. I do this, of course, before I determine whether the two herein were in fact such daughter-in-law and granddaughter, respectively, of the deceased.

26. The starting point is that under section 76 of the Act, revocation may be sought by any interested party, or the court may act on its own motion. "Interested party" has not been defined in the Act, but it would mean any person who has an interest in the estate. The question then would be whether a daughter-in-law has an interest in the intestate estate of her father in law. The trite law is that in intestacy the property of an intestate devolves upon the kindred or blood relatives of the deceased, save for the surviving spouse of the deceased. A daughter in law is not a blood relative of a deceased father-in-law, and therefore she does not have a direct claim to his estate. That would be so where her husband, the child of the deceased is alive. Where her own husband is deceased, she no doubt would have an interest in the estate, for the sake of her children, although it would be preferable for the children, being direct descendants of the deceased, to pursue the claim themselves, unless they are minors. Even where her deceased husband had no children, the daughter-in-law would still have a stake in the estate of the father-in-law, but she would claim not as daughter-in-law, for as such she is not entitled. She can only claim for the estate of her late husband, as she does have a stake in her husband's estate. In such case she must obtain representation to her late husband's estate first before she can move in her father-in-law's estate for revocation of grant.

27. Grandchildren usually do not have a right to their grandparents' estate so long as their own parents, the children of the deceased, are alive. The only time grandchildren are entitled to get involved in the estate of their deceased grandparents is where their own parents are also dead. The grandchildren have no direct stake in the estate of the grandparents, so they do not claim as a right. They step into the shoes of their dead parents through the principle of representation, and take what their parents were entitled to. They do not claim on behalf of the estate of their parents. No. They step into their parent's rights and claim the estate in their own right as grandchildren. That then would mean that they do not require obtaining representation to the estates of their dead parents.

28. The answer to the question whether the applicants herein can mount applications for revocation of the grant herein is in the positive so long as they can establish that they were indeed daughter in law and granddaughter, respectively. The daughter in law would be moving on the strength of representation to the estate of her dead husband, while the granddaughter would moving in her own right having taken over the rights of her own dead parent.

29. Is the first applicant a daughter-in-law of the deceased? She was not married to the deceased under statute or under customary law. She did not lead evidence to establish either a statutory or a customary law marriage. In the absence of such evidence, the only other thing would

be to presume marriage between her and the late son of the deceased. She said that they had lived at Thika for nine years. That was contested. She did not provide any proof of the alleged cohabitation. She did not call any witness to establish the cohabitation or the reputation that she and the late son of the deceased were considered husband and wife. I cannot find any basis, therefore, to deem her a wife of the late son of the deceased by dint of cohabitation.

30. Regarding the second applicant, there is a birth certificate on record that places the name of the late son of the deceased on record as her father. The family claims that she was not related to them as she was not introduced as such. The certificate was obtained before the alleged father died. I am, however, alive to the fact that a certificate of birth is not adequate proof of paternity. I had occasion to see the second applicant in the witness box and also her purported aunt and uncle in the same box. I am entitled to make visual observations, but, again the same are not conclusive.

31. The one piece of evidence that got me curious was the reaction of the respondents when confronted with the photographs that were allegedly taken at the burial of the late son of the deceased, James Kang'ethe Kamau. The two respondents, who testified, both acknowledged seeing the two applicants in the said pictures, even though they continued to assert that the two did not attend and did not participate in any way in the event. Indeed, the second applicant was identified positively as bearing the portrait of James Kang'ethe at that funeral. That can only mean that the two played a key role at that funeral, akin to that of very close relatives of the late son of the deceased.

32. I have also noted from the affidavits that Joseph Muigai swore, in reply to the two applications, that did not categorically denounce the two applicants, and appeared to only suggest that they had not provided proof of how they were related to his late brother.

33. I am of the persuasion that the two were related to the late son of the deceased. The first applicant does not appear now to be very keen on being identified as a spouse of the said son, but appears to be only holding brief for her daughter. I am not wholly satisfied that she was a wife of the late son of the deceased, but I have no hesitation in finding that she and the late son of the deceased were the parents of the second applicant. It may be necessary though that the second applicant be subjected to a DNA test to finally lay to rest the issue of paternity.

34. I am invited to make orders on accounts. Such order should await outcome of the DNA test.

35. It was alleged that the second applicant was not a dependant of James Kang'ethe. The issue is irrelevant. It should not arise. It is only relevant where the court is faced with an application provided on section 26 of the Law of Succession Act. The application before me are not mounted on the said provision.

36. In the end the orders that I shall make in determination of the revocation applications are as follows –

(a) That I hereby revoke the grant made in Thika CMCS No. 364 of 1997;

(b) That as a consequence of (a) above, the orders made on 4th June 2008 confirming the said grant are hereby set aside, the certificate of confirmation of grant issued thereon is hereby cancelled and all or any transactions carried out on its strength nullified;

(c) That I direct the Deputy Registrar to call up the court file in Thika CMCS No. 364 of 1997 for the purpose of the said file being consolidated with the instant file;

(d) That upon consolidation in terms of (c) above, the court herein shall proceed to have new administrators appointed;

(e) That a DNA test shall be carried out thereafter to confirm or establish paternity with regard to Teresiah Wanjiru Kang'ethe, with samples to be taken from or supplied by Joseph Muigai Kamau and Veronica Wanja Njuguna, siblings of the alleged father of the said Teresiah Wanjiru Kang'ethe, James Kang'ethe Kamau;

(f) That after release of the DNA test, the new administrators shall move to have their grant confirmed;

(g) That this being a family matter, each party shall bear their own costs; and

(h) That any party or parties aggrieved by the orders made in the judgment herein shall be at liberty, within twenty-eight (28) days, to lodge appeal against the same at the Court of Appeal.

DATED, SIGNED and DELIVERED at NAIROBI this 14TH DAY OF JUNE, 2018.

W. MUSYOKA

JUDGE