



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**SUCCESSION CAUSE NO. 497 OF 2009**

**IN THE MATTER OF THE ESTATE OF M'ITAMBU M'RIMBITU - DECEASED**

**MARGARET MUKOMUNENE M'ITHAMBU.....1<sup>ST</sup> PETITIONER**

**JAMES MWIRIGI M'ITAMBU.....2<sup>ND</sup> PETITIONER**

**VS**

**ESTHER NTIRINGA MUTWIRI.....OBJECTOR/APPLICANT**

**RULING**

M'Itambu M'Rimbitu died intestate on 13<sup>th</sup> August 1995 and left behind one property L.R. No. Nyaki/giaki/653 measuring 5.06 Ha. He was survived by a widow Margaret Mukomunene, 4 sons namely:-

Isaac Mugendi

James Mwirigi

Benard Kinoti

Terasio Bundi

He was also survived by 4 daughters namely:-

Rose Kanana

Grace Kanyai

Judith karomi

Doreen Bundi

All the beneficiaries consented to the widow Margaret Mukomunene and James Mwirigi Petitioning for Letters of Administration. Grant was made on 28<sup>th</sup> January 2010 to Margaret Mukomunenen and James Mwirigi.

Application for confirmation dated 4<sup>th</sup> January 2011 was filed by the 2 Administrators who proposed mode of distribution as per paragraph 5 of the affidavit in support of application. The application is also supported by consent to confirmation and distribution shown to have been signed 9 people including 2 purchasers namely Jonathan Njoroge Joshua and Robert Mwiraria. Grant was confirmed on 19<sup>th</sup> September 2011 in presence of all beneficiaries except for Isaac Mugendi who was by then deceased.

- Margaret Mukomunene got 2.0 acres
- James Mwirigi got 2.00 acres
- Benard Kinoti got 2.00 acres
- Taritio Bundi got 2.00 acres do hold in trust for Denis Muriuki Mugendi – Minor
- Rose Kanana

- Grace Kanyai Were to share one acre equally
- Judith Karimi
- Doreen Kaimuthi
- Jonathan Njoroge -1.50 acres
- Robert Mwiraria 0.50 acres

Jonathan Njoroge and Robert Mwiraria are purchasers.

On 11.6.2013 Esther Ntiring'a filed an application dated 11.6.2013 seeking that grant made on 28.1.2010 and confirmed on 19.9.2011 for reasons she is daughter to the deceased. She said she had been in occupation of suit land until when the petitioners threatened her with eviction and when she carried out a search she found out the Petitioners had fraudulently registered themselves as owners by filing petitions secretly. The applicant said that Margaret Mukomunene and James Mwirigi had proceeded to subdivide the original land into several parcels with an intention of disposing, alienating and transferring to third parties and disinherit her.

Directions were taken on 19.12.2016 that application for revocation be canvassed by way of written submissions. In submissions the applicant said that she and her mother and children are the direct beneficiaries to the estate of the deceased and that the petitioners were not direct beneficiaries to the estate of the deceased and that the petitioners were not direct beneficiaries. The petitioner didn't respond to the application and didn't file submissions as directed by the court.

It appears from the statements supporting applicants application that her uncle M'Itambu Rimbitu forged documents alleging he was also known as Mururu Rimbitu. The witness Stephen Kaai and Rufus Mutua said the applicant and her siblings Zachary Kimathi and Jane Karimi as well as deceased persons real widow Martha Regeru were the rightful beneficiaries to the estate.

As it stands now the application has not been opposed, same is allowed. Grant made to Margaret Mukomunene and James Mwirigi is hereby revoked and any transaction arising from the grant is annulled and is null and void ab initio. Sub-divisions of LR. Nyaki/Giaki/653 is annulled and resultant subdivisions to be cancelled and to revert to the name of the deceased. Costs of application to be paid by the petitioners.

**HON. A.ONG'INJO**

**JUDGE**

**RULING SIGNED, DELIVERED AND DATED THIS 2<sup>nd</sup> DAY OF AUGUST 2018.**

**In the presence of:-**

Petitioner:-Present in person.

Objector:- Mr Ondari Advocate for Mugambi for Objector

**HON. A. ONG'INJO**

**JUDGE**