



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 658 OF 2012**

**IN THE MATTER OF ESTATE OF KIRIANKI KANANA- (DECEASED)**

**JAPHET NKARI MBURUGU ..... PETITIONER**

**RULING**

The deceased Kirianki Kanana died on 15<sup>th</sup> August 1986 and left behind one daughter Agnes Muthoni Kirima and a nephew Japhet Nkari Mburugu according to the chief's letter dated 21<sup>st</sup> August 2012.

The Chief in his letter went further to say that the deceased had wished that his nephew Japhet Nkari takes his land after his death according to Kimeru customs and that the family was agreeable to those wishes. He also stated that the deceased person's only daughter is married and is comfortable wherever she is married. The deceased person left behind 271/Upper Mukumbune. On 3<sup>rd</sup> June 2012 grant was made to Japhet Nkari Mburugu wanted the temporary grant to be confirmed before expiry of statutory period claiming that Agnes Murema was sick and she required urgent medical attention so he wanted to sell part of the suit property which he could only do if certificate is issued.

The application was allowed. The grant made to Japhet Nkari was revoked on 4<sup>th</sup> May 2017 and Agnes Regiri Kirima and the children of her sister Curi M'Iranki allowed to take out Letters of Administration and confirmation of grant. Edward Gichuru Rwito filed application for confirmation dated 30<sup>th</sup> November 2017 and at paragraph 5 of affidavit supporting the application he proposed how the estate is to be distributed. This estate should rightly be distributed between the 2 daughters of the deceased namely:-

- i. Curi M'Iranki – Deceased
- ii. Agnes Muthoni.

The application to revocation indicates Edward Gichuru Rwito is one of the children of Curi M'Iranki – now deceased – who was daughter of the deceased person in this succession cause. Edward Gichuru M'Rwito does not explain why he wants balance of one acre to devolve to him and yet he should inherit through his mother Curi M'Iranki. This estate will be shared equally between Agnes Muthoni and the children of her late sister Curi M'Iranki. Thus Edward Gichuru and Kureta Kathure John will hold what was due to Curi M'Iranki on their behalf and on behalf of other children of the Late Curi M'Iranki to share equally. It is not explained who Mary Karambu is to the deceased and if a niece why she should inherit from the deceased and not her parents.

Those are orders of this court.

**HON. A.ONG'INJO**

**JUDGE**

**JUDGMENT DELIVERED, SIGNED AND DATED THIS 27<sup>TH</sup> DAY OF SEPTEMBER 2018.**

**In the presence of**

**Applicant:**

**Respondent :**

**HON. A.ONG'INJO**

**JUDGE**