



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO.201B OF 2014

In the Matter of the Estate of M’Kiringa M’Itabara(Deceased)

JANET NCORORO.....PETITIONER

Versus

JOEL THURANIRAM’ERINGA.....APPLICANT

RULING

Revocation of grant

[1] I have before me an application dated 8th July 2016 which seeks inter alia:

(1) An inhibition to be registered upon L.R NO. NJIA/BURIERURI/2584; and

(2) Revocation of grant of letters of administration issued to the Petitioner.

[2] The application is supported by the Affidavit of JOEL THURANIRAM’ERINGA and other grounds set out in the application. The Petitioner did not file any affidavit despite having been given sufficient time to do so. I will, however, consider all relevant matters and make a decision.

[3] In a nutshell, the Applicant argued three points in support of his application for revocation of grant. First one; that the Petitioner applied for letters of administration of this estate without the knowledge of the Applicant, yet, as the brother of the petitioner he was entitled to be notified of and for his consent to be obtained before the proceedings are filed.

Second, the Petitioner did not disclose all properties of the estate as well as all the beneficiaries of the estate. Here he sees an intention to disinherit him; something that is material in these proceedings. And, three; the Petitioner has single-handedly distributed the estate and in an unfair manner.

[4] I will place the facts of this case to the scales of law provided in Section 76 of the Law of Succession Act CAP 160 of the Laws of Kenya. And from the arguments before me, I should ask whether:-

(a) The proceedings to obtain the grant were defective in substance; or

(b) The grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case; or

(c) The grant was obtained by means of an untrue allegation of a fact essential in point of law

to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently

[5] The Applicant did not annex any document to show that the other two pieces of land namely L.R NO NJIA/BURIERURI/832 & 1546 belonged to the deceased. Again, other than stating that there are other beneficiaries who were left out, he has not given a single name to that effect. Also, merely stating that he is a brother of the petitioner without providing some evidence that may tend to support his claim is not profitable.

I note with a lot of concern that the Applicant was not listed as one of the issues of the deceased in the letter by the Chief dated 1.10.2013. Those lapses notwithstanding, however, I am impelled to give this matter one more chance in order for the truth to be borne out. And, to achieve this, I will exercise the powers of the court under section 47 and Rule 73 of the Law of Succession Act and Probate and Administration Rules, respectively. Accordingly, I direct that:

(1) The Chief who authored the letter dated 1.10.2013 shall appear before me during the next appointed date.

(2) The Applicant shall provide the court within 21 days with land registry record of L.R NO NJIA/BURIERURI/832 and L.R NO NJIA/BURIERURI/1546 which show that these lands belong to the deceased.

(3) On receipt of the information sought above, I will determine the request for revocation of the grant herein. It is so ordered.

Dated, signed and delivered in open court at Meru this 25th day of April 2017

F. GIKONYO

JUDGE

Ruling delivered in open Court in the presence of:-

Nyakwara for Wamache for interested party.

Petitioner in person - absent

C.C Mwenda

F. GIKONYO

JUDGE