



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 274 OF 2014**

**CONSOLIDATED WITH SUCC. CAUSE NO. 3012 of 2012**

**IN THE MATTER OF THE ESTATE OF KIMANI GATURU alias GEORGE KIMANI GATURU  
(DECEASED)**

**RULING**

1. The deceased herein died on 25<sup>th</sup> December 2006. This cause was initiated on 7<sup>th</sup> December 2012 by an affidavit sworn by Joyce Wangari Njenga, Lucy Wataro Mwangi and Esther Wanjiru Kimani, daughters of the deceased, seeking to have citations issued upon Beatrice Wambui Kimani, Amos Ndung'u Kimani and James Wamwenja Kimani to either to take up administration of the estate or to have the citors appointed administrators.
2. The citees appeared and swore an affidavit on 24<sup>th</sup> January 2013 stating that they were a widow and sons, respectively, of the deceased. They assert that the citors had not followed the correct procedures, which procedures they have not identified.
3. The matter was mentioned for directions on 1<sup>st</sup> October 2013, both the citors and the citees were represented by counsel. It was agreed by consent that the citees would file petition for representation within thirty (30) days. The matter was to be mentioned on 6<sup>th</sup> November 2013 for compliance.
4. When the matter was mentioned in court on 6<sup>th</sup> November 2013, only the citors were represented, the citees were not, and they did not attend court. It was urged by the citors that that the citees had not petitioned for representation as ordered on 1<sup>st</sup> October 2013, whereupon the court granted leave to the citors to file for representation. However, I can now see in the file of papers before me that the citees - Beatrice Wambui Kimani, Amos Ndung'u Kimani and James Wamwenja Kimani – had complied with the directions of 1<sup>st</sup> October 2013 by filing a petition herein on 30<sup>th</sup> October 2013.
5. It transpires that the citors had initiated another cause in the same estate in HCSC No. 274 of 2014, in purported compliance with the leave granted on 6<sup>th</sup> November 2013. They need not have done that as they should have filed their petition in the cause where leave had been granted.
6. Directions were given in the matter on 28<sup>th</sup> July 2015 by Muigai J., to the effect that the issue of who is entitled to be appointed administrator be resolved first before a grant is made in the circumstances, given that both sides have petitioned for representation. The parties have not made any progress since then as it would appear that only one side of the family has been attending court ever since.
7. The matter was placed before me on 28<sup>th</sup> October 2015 regarding an application dated 22<sup>nd</sup> October 2015. It was mentioned several times before me thereafter; eventually I made the order of 13<sup>th</sup> March 2017 that I would study the file before giving directions on the way forward. The application dated 22<sup>nd</sup> October 2015 was subsequently withdrawn on 22<sup>nd</sup> August 2016 to allow the petitioners concentrate on prosecuting their petition.
8. I have studied the court file. Without prejudice to the directions made by Muigai J. earlier and to move this matter forward, I hereby direct as follows:-

- (a) that the two causes be consolidated, with the lead file being HCSC No. 3012 of 2012;**
- (b) that the matter be disposed of as per the directions given on 28<sup>th</sup> July 2015 by Muigai J. ;  
and**
- (c) that a date for the hearing of the matter shall be given on the date appointed for delivery  
of this ruling.**

**DATED, SIGNED and DELIVERED at NAIROBI this 29<sup>TH</sup> DAY OF SEPTEMBER, 2017.**

**W. MUSYOKA**

**JUDGE**