

IN THE HIGH COURT OF KENYA AT MURANG'A

SUCCESSION CAUSE NO 137 OF 2014

(FORMERLY NAIROBI HC SUCCESSION CAUSE NO.1317 OF 1996)

IN THE MATTER OF THE ESTATE OF SILA NDUNGU MARIIRA, DECEASED

1. JONAH WAMUTITU NDUNG'U

2. ALLAN KANG'EA NDUNG'U.....APPLICANTS

VERSUS

PETERSON NDUNG'U MARIRA..... RESPONDENT

PRE-RULING DIRECTIONS

1. The summons dated 18/03/2014 for annulment or revocation of grant of probate of written will made and confirmed herein is pending ruling. One of the complaints of the Applicants is that the grant was sought without informing or involving them, and, in effect, that they were not aware of the proceedings until after the grant had been made and confirmed.

2. **Section 67** of the *Law of Succession Act, Cap 160* (the Act) requires publication of notice of the application for grant (other than a limited grant for collection and preservation of assets), and that such notice be exhibited conspicuously in the court house, and also be published in such other manner as the court directs.

3. **Rule 7(4)** of the *Probate and Administration Rules, 1980* made under the Act states –

“(4)The registrar shall cause to be inserted, at the cost of the applicant, in the *Gazette* and, if he so decides, in a daily newspaper, and to be exhibited conspicuously in the court house attached to the registry where the application is intended to be made, a notice of the application for the grant in Form 60 inviting objections thereto to be made known to that registry within a period to be specified in the notice, of not less than thirty days from the date of the last of such publications.”

4. As I perused the court record in preparation to write the ruling, I was unable to find evidence of gazettment of the petition for grant of probate that resulted in the grant sought to be annulled or revoked. Let the court be addressed on this issue before I can proceed to write the pending ruling.

DATED AND SIGNED AT MURANG'A THIS 12TH DAY OF OCTOBER 2017

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 13TH DAY OF OCTOBER 2017