



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
SUCCESSION CAUSE NO 180 OF 2011

IN THE MATTER OF THE ESTATE OF MWAURA WANGONYA (DECEASED)

MWAURA KAMAU HARUN.....APPLICANT/OBJECTOR

VERSUS

MARTHA WANGARI MWAURA.....RESPONDENT/PETITIONER

RULING

By an application filed 20th February 2015 and amended on 21st February 2015, The Applicant sought orders that:

- a. The Court be pleased to issue interim orders restraining the Land Registrar Thika from registering land titles **Chania/Kanyoni/ 2413 and 2407** in the name of the new buyer; further,
- b. That the Court be pleased to issue orders directing the Land Registrar, Thika to revoke the aforementioned titles currently in the name of the Respondent; further
- c. The Court issues orders revoking new titles that may have been issued by the Land Registrar Thika on the subdivision of the aforementioned titles; and
- d. That the respondent be cited for contempt of court.

The Applicant's application was premised on the grounds that the grant issued to the Respondent herein in **Gatundu Succession Cause No.26 of 2007** was revoked by this court by its ruling dated 30th October 2014. Subsequent to that revocation, the Respondent in complete disregard to the orders issued by this court applied to the **C.Ms Court at Thika in Miscellaneous Application 108 of 2014** to have the cautions placed by the Applicant herein on land titles **Chania/ Kanyoni/2413 and 2407** removed and orders were granted on 22nd October 2014. The Respondent subsequently proceeded to sell the land despite the revocation of grant by this Court.

The Respondent was served through advocates on record Njiraini and Co Advocates as evidenced by affidavit of service filed on 6th November 2015. She did not reply to the summons despite service. This Court in its Ruling on the summons for revocation filed by the Applicant herein upheld the same and revoked the grant of letters of administration issued to the Respondent as well as the confirmation. The

Court directed that both parties to proceed and obtain letters of administration jointly and one of them with the consent of the other and subsequently seek confirmation of the same with a proposed mode of distribution. Neither of the parties filed a fresh petition for grant after the revocation.

The Respondent herein was registered as the proprietor of the two properties forming part of the estate of the deceased based on the grant issued by the **C.Ms court at Thika in Cause No.26 of 2007**. The said grant was subsequently revoked by this Court for reasons stated in the ruling dated 30th October, 2014. The Ruling has not been reviewed or an appeal preferred. Accordingly, it follows that upon this revocation, the registration of the land titles in the name of the Respondent should be cancelled as it was based on a now revoked grant. I thus direct that the Registrar of Lands, Thika to cancel registration of **Land titles No. Chania/Kanyoni/ 2407 and 2413** in the name of the Respondent. The said titles should revert to the name of the deceased.

Though the Applicant also sought orders of cancellation of any titles obtained from sub-division of the two properties aforementioned, no evidence was tabled to suggest that the Respondent herein had proceeded to sub-divide the land parcels and sold the same to third parties. This Court cannot at this stage issue the said orders as no proof of sub-division and subsequent sale was provided.

The Respondent herein was evidently in contempt of this Court when subsequent to the ruling revoking grant issued to her, she filed summons seeking removal of caution placed by the applicant on **Chania/Kanyoni/2413 and 2407**. The said application which was filed in Chief Magistrate's Court at Thika alleged that the Respondent was not aware of the Applicant being a beneficiary of the estate. This is despite the Court Ruling that the both the Respondent and the Applicant were beneficiaries of the estate of the deceased and both were entitled to benefit from the same.

COURT ORDERS

- 1. The Registrar of Lands, Thika shall cancel registration of Land titles No. Chania/Kanyoni/ 2407 and 2413 in the name of the Respondent. The said titles should revert to the name of the deceased as per this Court's Ruling of 30th October, 2014**
- 2. The parties to petition issuance of fresh grant of letters of administration and confirmation of the same.**
- 3. The Respondent her agents/servants are hereby restrained from alienation, subdivision, sale, disposal, transfer or in any way dealing with the land parcel Land titles No. Chania/Kanyoni/ 2407 and 2413 herein before petition and issuance of fresh grant of letters of administration and confirmation of the same.**
- 4. The Respondent be cited for contempt of Court.**
- 5. The Applicant shall have the costs of this suit.**

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 17TH DAY OF MARCH, 2016

M. MUIGAI

JUDGE

In the presence of:

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