

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 160 OF 2016

MARY WAITHERA WAWERUAPPLICANT

VERSUS

WILLIAM KIIGI WAWERU.....1ST RESPONDENT

LABAN KIIGI WAWERU.....2ND RESPONDENT

JOHN KAMAU KIIGI.....3RD RESPONDENT

RULING

1. On the **27th January, 2016** the applicant Mary Waitthera Waweru the widow of the deceased filed a summons for revocation of grant. The applicants seeks to have a stay and /or freeze of any expenditure spending and sale of any of the estate income by the administrators/Respondents including all the properties listed in the certificate of confirmation of grant dated 8th March, 2013 and that any income derived from the estate property be deposited in a Bank Account approved and designated by this Court. The applicant also seeks that the grant made to William Kiigi Waweru, Laban Kiigi Waweru and Jane Kamau Kiigi on the 8th March, 2013 be revoked and/or annulled. That the curSrent Administrator do provide within 14 days of issuance of the order filed accurate inventory and statement of accounts from the date of confirmation of grant to them to the date of this Court’s order, and that the administrators be personally surcharged for any insufficient funds or assets.

2. The Respondents were served. Only the 1st Respondent attended the hearing of the said application. The 2nd and 3rd Respondent document offered. That 1st Respondent chose not to respond to the application dated the 27th January, 2016. The said application is supported by grounds stated on the face of the application and a supporting affidavit of applicant which the details of how the Respondents applied for a grant at the Chief Magistrate Court at Kiambu without her knowledge and the other beneficiaries. That the Respondents thereafter proceeded to distribute the estate and are currently misapplying assets of the estate e.g transferring parcels of land without due consultations, this is in relation to Thika Municipality Blocks 40/1225, 1226,1227,1228,1229, 1230 and 1231. That the administrators actions have further caused the estates to be a risk of attachment by creditors and that the deceased’s signature have been forged. That the administrators have to date not accounted for the proceeds from the sale of several properties and have not accounted for other income of the estate, that due to the laxity and disregard exhibited the current administrators in distributing the deceased’s estate it would be in the best interest of the beneficiaries that the court appoints an independent manage to redistribute the estate and rectify the errors both willful and by omission made by the present administrators so as to restore equity.

The facts as deponed by the applicant was not challenged. She has exhibited copies of a certificate of grant dated the 8/3/13 issued to the respondent. She has expressed her fears in the way the estate is being managed. Administrators of an estate have a duty to ensure that the deceased estate is fairly distributed and not wasted. Allegations of the estate being misapplied have not been responded to.

Prayer 3 of the application seeks a revocation of the grant, that this court will not deal with at this interlocutory stage. I find that the applicant is entitled to prayer No. 4, that the current administrators do provide within 30 days of issue of this order a full and accurate inventory and statement of accounts from

the date of confirmation of the grant to the date of this court order. I further stay expenditure, spending and or sale of any of the estates income by the administrators including all the properties listed in the certificate of confirmation of grant dated the 8/3/2013. Parties shall meet and agree on where the income derived from the estate property to be deposited. These order shall be in force pending the hearing of the summons for revocation. The respondent shall respond to the said summons within 30 days from the date the court order is served on them and parties to take a date for directions after the 30 days. Costs shall be in the cause. It is so ordered.

Dated signed and delivered this **15th** Day of **April 2016**

R. E OUGO

JUDGE

In the presence of :

.....The Applicant

.....The 1st Respondent

.....The 2nd Respondent

.....The 3rd Respondent

Charity

Court clerk