



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

SUCCESSION CAUSE NO. 175 OF 2009

IN THE MATTER OF THE ESTATE OF ALBERT NJOGU NJAGI (DECEASED)

MURIITHI NJAGI NJOGU.....APPLICANT

VERSUS

BEATRICE GACEKE NJOGU

MARY WANGARI MBUTITI

PHILLISILA MUTHONI ALBERT.....RESPONDENTS

RULING

1. The applicant's application brought by chamber summons seeks revocation of the letters of administration and the confirmed grants issued to both Beatrice Gaceke Njogu and Mary Wangari Mbutiti in Kerugoya Senior Resident Magistrate's Court Succession Cause No. 176 of 2001 and those issued and confirmed in Kerugoya Senior Resident Magistrate's Court Succession Cause No. 290 of 2000 to Phillisila Muthoni Albert in respect of the estate of the deceased. He also seeks provision of costs of this application.

2. The application is based on his supporting affidavit dated 25th March 2009. The applicant testified as PW 1 in support of the revocation of the two grants. He testified that he is a shoe repairer at Kamwana. His evidence is that Beatrice Gaceke Njogu is his mother. It is also his evidence that Phillisila Muthoni Albert is the wife of his late father. According to him, Mary Mbutiti Wangari claims to be the wife of his late father. In his further evidence in court, he confirmed that the respondents did not inform him that they had filed succession causes in respect of the suit land parcel No. Ngariama/Lower Ngariama/1545. In Kerugoya SRM's succession cause No. 176 of 2001, a certificate of confirmation of grant was issued to both Mary Wangari Mbutiti and Beatrice Gaceke Njogu. This certificate was put in as exhibit PEX 1. The applicant is not one of the beneficiaries according to PEX 1. Furthermore, it is also clear from the title deed in respect of the suit land which was put in evidence as exhibit PEX 3 that the applicant is not one of the registered owners of the suit land.

3. The evidence of the applicant was not opposed. The proceedings were conducted in the presence of the first respondent but in the absence of the second and third respondents. I was satisfied that they were properly served and had adequate notice of the hearing.

4. I find from the evidence of the applicant that he is the son of the deceased. I also find that he is a beneficiary of the estate of the deceased. Furthermore, I also find that he was entitled to a share of the estate of the deceased. I believe his evidence that the respondents took out letters of administration

intestate and were issued with the two confirmed grants without his consent.

5. In the circumstances, I find that the applicant has proved his case against the respondents. And for that reason, the letters of administration and the two confirmed grants are hereby revoked in terms of prayer No. 1 of the chamber summons dated 25th March 2009.

6. I make no orders as to costs since the dispute involves family members.

RULING DATED, SIGNED and DELIVERED in open court at **EMBU** this **21st** day of **JUNE 2016**

In the absence of the applicant and all the three respondents.

Court clerk Njue

J.M. BWONWONGA

JUDGE

21.06.16