

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 795 OF 1997

IN THE MATTER OF THE ESTATE OF GITAU MUTUNGI (DECEASED)

RULING

1. The application for determination is the summons general dated 12th November 2011. The applicant seeks that the respondent be punished for contempt of court.
2. The application is founded on provisions of the Law of Succession Act, Cap 160, Laws of Kenya, and of the Probate and Administration Rules. None of these provisions provide a framework for trial of contemnors for contempt of court.
3. The law which governs contempt of court in civil proceedings is set out in the Judicature Act, Cap 8, Laws of Kenya.
4. There should always be a strict compliance with the law when it comes to punishing for contempt of court. The proceedings governing the same are quasi-criminal in nature, for the penalty provided for the offence is either imprisonment or payment of a fine. Due to the punitive nature of the proceedings it is imperative that the law be complied with to the letter.
5. As due process has not been adhered to in this case, I find no basis for citing the respondent for contempt of court. The applicant should endeavour to follow the correct procedure with respect thereto.
6. I shall accordingly dismiss the application dated 12th November 2011.
7. As the deceased was a resident of Kiambu County and the bulk of his estate is situated in that County, I shall direct that the matter be transferred to the High Court of Kenya at Kiambu for final disposal.
8. It is so ordered.

DATED, SIGNED and DELIVERED at NAIROBI this 26TH DAY OF OCTOBER, 2016.

W. MUSYOKA

JUDGE