

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

SUCCESSION CAUSE NO. 231 OF 2015

IN THE MATTER OF THE ESTATE OF ELVIS SAMUEL NJUE (DECEASED)

ESTHER WANGECHI NJUE

ERIC WILHELM NJUE.....PETITIONERS

RULING

1. This ruling is on the application of the petitioner/applicant in respect of summons for confirmation in terms of section 71 of the Law of Succession Act (Cap 60) Laws of Kenya. The petitioners have also sought for an order for provision of costs.

2. They have deponed to a joint affidavit dated 9th May 2016. In that affidavit, they have deponed that a grant of letters of administration of the estate was made to them on 12th October 2015. They have further deponed that there were three beneficiaries in respect of that estate namely the two petitioners and one Beth Emma Wangui Njue. They have also deponed that the estate that is sought to be inherited consists of land parcel No. Ngandori/Kirigi/8911. They have further deponed that there is no estate duty to be paid in respect of the said parcel of land.

3. Finally, they have deponed that 6 months have lapsed since they were granted letters of administration intestate in respect of the estate of the deceased.

4. According to the certificate of official search dated 16th October 2015, the registered owner of land parcel No. Ngandori/Kirigi/8911 is Njue Harun Samuel. The said registered owner is not the same person as the deceased herein namely Elvis Samuel Njue. In the circumstances, the application for confirmation of the grant is hereby refused, because the said parcel of land is not part of the estate of the deceased person herein. It should be borne in mind that courts do not issue orders in vain.

5. The application is hereby dismissed with no orders to costs.

RULING DELIVERED, DATED and SIGNED in open court at EMBU this 13th day of OCTOBER 2016.

In the presence of Mr. Ithiga holding brief for Mr. Gaturu for the petitioners

Court clerk Njue

J.M. BWONWONGA

JUDGE

13.10.16