



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

SUCCESSION CAUSE NO. 122 OF 2009

IN THE MATTER OF THE ESTATE OF WARUINGUNGU(DECEASED)

RUTH KARUANA WARUI.....APPLICANT

VERSUS

FRANCIS NJUNG'E

JOHN KAGATI KIBUTI

ROGER KANGETHE

JOSEPH KARUGU

MARY WAMAITHA.....RESPONDENTS

AND

BERNARD KARIMI KARUI

GABRIEL HIUHU NYAMU

CATHERINE WAWIRA MURIUKI.....INTERESTED PARTIES

RULING

1. The applicant (Ruth Karuana Kibico) has filed an applications in this court dated 9th November 2016. In the application the applicant has sought an order of this court to join the three interested parties/respondents to be enjoined as parties to this succession cause. The reason being that they are beneficiaries in the original land parcel No. Mutira/Kirimunge/178, which is the subject matter in this cause. The 2nd ground advanced in support of her application is that the interested parties will be affected by the outcome of the pending application for revocation/annulment of the grant which was issued and implemented.

2. She has deponed to a 20 paragraph affidavit in support of her application. Amongst other matters, she has deponed that she is the widow of the deceased person to whom she got married in 1961. she has further deponed that the subject, land parcel No. Mutira/Kirimungi/178 was registered in the name of her late husband. She has also deponed that Francis Njunge Ngungu filed High Court Succession Cause No. 122 of 2009 in which a confirmed grant was made in his favour. She has further deponed that Francis Njunge Ngungu swore a false affidavit that her deceased husband had no wife or children. It is on that

basis that he obtained a confirmed grant and distributed the estate of the deceased to his brothers and sisters and strangers. She has finally deponed that as a result she was totally disinherited.

3. The proceedings of this application proceeded in the absence of the respondents and the interested parties. I was satisfied that they were properly served and had adequate notice of hearing.

4. I have considered the unopposed affidavit evidence of the applicant. I find that it is credible. I further find that it is fair and just to enjoin the interested parties to this succession cause in order to enable the court to finally hear and determine all the issues in dispute among all the parties.

5. In the light of the foregoing, I hereby grant the application of the applicant in prayer 2 of the notice of motion dated 9th November 2016 with no orders as to costs.

RULING DATED, SIGNED and DELIVERED in open court at **EMBU** this **19th** day of **DECEMBER 2016**

In the presence of Mr. Kamunya holding brief for Mr. Nduku for the applicant and Mr. Siro holding brief for Ms Thungu for the respondents

Court clerk Njue

J.M. BWONWONGA

JUDGE

19.12.16