

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 1892 OF 2011

IN THE MATTER OF THE ESTATE OF DANIEL NJOGU MACHARIA – (DECEASED)

RULING

1. The application I am tasked with determining is the Summons for Revocation of Grant dated 8th August 2013.
2. I have perused the record and noted that the same has not been served on the respondents as there is no evidence of such service on record.
3. What I see on record is an affidavit of service when the matter was coming up for mention for directions on 27th May 2014. When the matter came up counsel appearing for the applicant indicated that he had served and referred me to the affidavit of service.
4. The affidavit of service he referred to was that sworn on 26th May 2014. I have perused the same and noted that it related to service of a mention notice and not the application itself. The application has never been served. The court was therefore misled into giving directions prematurely, that it be disposed of by way of written submissions.
5. Submissions were duly filed by the applicant, but not the respondent. I thereafter fixed the matter for ruling.
6. As the application was never served on the respondents, it would be unjust to determine the matter without their involvement.
7. Consequently, I do hereby direct the applicants to serve the application dated 8th August 2013 on the respondents.
8. The matter shall thereafter be fixed directions on the mode of disposal. The directions given on 27th May 2014 are hereby vacated. Further directions to be given on a date given at the registry on priority.

DATED, SIGNED and DELIVERED at NAIROBI this 30th DAY OF January 2015.

W. MUSYOKA

JUDGE