



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**SUCCESSION CAUSE NO. 551 OF 2013**

**IN THE MATTER OF THE ESTATE OF GITAU WABARA GITAU a.k.a GITAU NJUGUNA -  
(DECEASED)**

**RULING**

1. Citations were issued on 26<sup>th</sup> March 2013 to George Njuguna Gitau Wanjiku Gitau, Stephen Kimani Gitau and Peter Mbugua Gitau. The same issued at the instance of John Gachoka Njuguna and Lucy Njeri Njuguna.
2. The citors are a brother and a sister of the deceased, while the citees are the children of the deceased. The citation is for them to accept or refuse letters of administration intestate.
3. The citations were served. One of the citees filed affidavits in reply sworn on 3<sup>rd</sup> April 2014 and 30<sup>th</sup> June 2014, respectively. He avers that two assets allegedly registered in the name of the deceased, that is to say Ndumberi/Ndumberi/306 and Ndumberi/Ndumberi/T.141, were not family property held in trust by the deceased in favour of the citors. He avers that there was a court case, being HC Misc. Civil Application No.92 of 2009, where the court awarded the land to the deceased.
4. The first citee has attached to his affidavit court documents from HC. Misc. Civil Application No. 92 of 2009. I have noted that none of the documents have orders awarding the subject land to the deceased. There is therefore nothing in those documents to show that the property is not held in trust.
5. Citations are issued to persons who are required to either accept or refuse, letters of administration. The citees in this case have neither indicated their willingness to accept or refuse to take out letters of administration. Indeed none of them have moved the court for a grant of letters of administration intestate.
6. Consequently, there is no reason why I cannot direct that the citors do proceed to petition for administration of the estate of the deceased.
7. The directions given in this matter are that John Gachoka Njuguna and Lucy Njeri Njuguna are at liberty to proceed to petition for grant of letters of administration intestate to the estate of Gitau Waibara Gitau alias Gitau Njuguna (deceased).
8. It is so directed.

**DATED, SIGNED and DELIVERED at NAIROBI this 30<sup>th</sup> DAY OF January 2015.**

**W. MUSYOKA**

**JUDGE**