

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

SUCCESSION CAUSE NO. 93 OF 2014

IN THE MATTER OF THE ESTATE OF DANSON WANJAMA KARIUKI (DECEASED)

JOHN KARIUKI WANJAMA.....APPLICANT

RULING

This ruling is on an uncontested application dated 20th January, 2015 brought under **section 76 Rule 44** of the **Probate & Administration Rules**. The applicant seeks to have the grant of letters of administration intestate made to one **Grace Wairimu Wanjama** on 31st March, 2014 in respect of the estate of **Danson Wanjama Kariuki** (deceased) revoked and in her place John Kariuki Wanjama be appointed as the administrator of the deceased's estate.

The basis of the applicant's application is that the original administratrix, **Grace Wairimu Wanjama** died on 10th July, 2014; a copy of the certificate of her death has been exhibited to the applicant's affidavit sworn in support of the summons. It is the applicant's case that with the demise of the administratrix, the letters of administration granted to her have become inoperative and incapable of being confirmed.

Filed together with the summons is a consent duly executed by all persons who are entitled to a share of the deceased's estate and who would otherwise be entitled to petition for the grant of letters of administration themselves.

Under **section 76 (e)** of the **Law of Succession Act** a grant may be annulled or revoked on the ground that it has become useless and inoperative through subsequent circumstances. The demise of an administrator or administratrix is without doubt one of the subsequent circumstances that would render a grant useless or inoperative. **Section 51 (1) and (2)(d), section 76(d)** of the **Act** together with rule **26(3)** of the Probate and Administration rules presuppose that the grant can only be made and a deceased's estate can only be administered by a living person. Where the administrator or the administratrix dies before the estate is distributed the grant to him or her serves no purpose.

I am satisfied that for the reasons given, the applicant's summons dated 20th January, 2015 is merited and it is hereby allowed; I therefore order that the grant made to Grace Wairimu Wanjama on 31st march, 2014 be and is hereby revoked and that **John Kariuki Wanjama** is hereby appointed as the administrator of the estate of the late Danson Wanjama Kariuki.

Dated, signed and delivered in open court this 31st July, 2015

Ngaah Jairus

JUDGE