

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

SUCCESSION CAUSE NO. 2221 OF 2005

IN THE MATTER OF THE ESTATE OF KEZIAH WANJIRU CHEGE ALIAS – WANJIRU
KINYANJUI ‘A’ ALIAS WANJIRU KINYANJUI – (DECEASED)

RULING

1. The application dated 25th January 2012 seeks substitution of a dead party and orders that named heirs be directed to apply for letters of administrators.
2. The applicant has a pending Summons for Revocation of grant dated 11th August 2005. The grant sought to be revoked had been made to Charles Njoroge Kinyanjui. The said administrator has since died. The applicant would like to amend his summons for revocation to remove the name of the administrator and replace it with that of the person named in the application dated 25th January 2012.
3. The application before me is clearly misconceived. A revocation application is directed at the person named in the grant as administrator. Once such administrator dies, the revocation application dies a natural death unless the grant appointed more than one administrator. This is so since a subsequent appointment of an administrator to replace the dead administrator would give rise to a fresh grant which would be unaffected by any pending application for revocation of grant.
4. Secondly, the person named in the revocation application as sole administrator cannot be substituted as his demise would result in the grant made to him becoming useless and inoperative. In any event, even if he were to be substituted in the revocation application, which is not feasible, he can only be substituted with persons who have themselves been appointed administrators of the estate. He cannot be replaced with heirs who are yet to be named by the court as administrators.
5. The application dated 25th January 2012 is for dismissal. I hereby dismiss it with costs to the estate.
6. The applicant is advised to join hands with other family members in identifying the next administrator.
7. The matter shall be mentioned on 4th February 2014 to confirm whether the family has agreed on the person to be appointed administrator to take the place of the late Charles Njoroge Kinyanjui.

DATED, SIGNED and DELIVERED at NAIROBI this 31st DAY OF January, 2014.

W. MUSYOKA

JUDGE