

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 3165 OF 2007

IN THE MATTER OF THE ESTATE OF PENINAH WANJIRU NGUGI – (DECEASED)

JUDGEMENT

1. The application dated 14th November 2007 seeks revocation of the grant made on 29th August 2007 to James Karanja Ngugi, Joseph Mbugua Ngugi and Rose Wanjiru Njuguna. The applicant, Salome Kabura Ngugi, complains that she and her sister, Susan Wanjiku Ngugi, have been sidelined from their mother's estate.

2. In her reply sworn on 18th April 2008, the 2nd administrator, Rose Wanjiru Njuguna, acknowledges that the applicant is a child of the deceased but denies that she was sidelined in the administration of the estate and has been discriminated. She alleges that the applicant was privy to the process of obtaining grant.

3. The grant in question was issued by the Limuru Resident Magistrate's court in succession cause number 52 of 2006. The Limuru court file has not been availed, but from the record before me I do note the following:-

- a. that in the petition for grant it was alleged that the deceased was survived by only three children – James Karanja, Joseph Mbugua and Rose Wanjiku Njuguna.
- b. that the letter from the Chief of Limuru Location identified three survivors of the deceased – James Karanja, Joseph Mbugua and Rose Wanjiru, wife of Peter Njuguna Njagi.
- c. that at the confirmation of the grant the estate was divided to among others Susan Wanjiku Ngugi, who was not listed in the petition as a survivor of the deceased.
- d. that the applicant herein Salome Kabura Ngugi was neither listed in the petition as a surviving daughter of the deceased nor allotted my shares at the point of confirmation of the grant.

4. From the above material, it is clearly discernible that the process of obtaining the grant was attended by deceit and fraud to the extent that two of the surviving children of the deceased were not disclosed at the point of obtaining the grant. Their existence was suppressed and quite obviously there was design to disinherit them.

5. A case has been made out for the revocation of the grant made with respect to the estate of Peninah Wanjiku Ngugi. I hereby revoke the said the grant made in **Limuru Resident Magistrate Court Succession Cause No. 52 of 2006** to James Karanja Ngugi, Joseph Mbugua Ngugi and Rose Wanjiru Njuguna and cancel the certificate of confirmation of grant dated 28th August 2007.

6. I direct that members of the family of Penina Wanjiru Ngugi, including Salome Kabura and Susan Wanjiku, do agree on representation to the said estate and thereafter move the Limuru Resident Magistrate's court appropriately in that behalf.

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

W. MUSYOKA

JUDGE