



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 2083 OF 2007

IN THE MATTER OF THE ESTATE OF PETER MBURU MUNGAI – (DECEASED)

RULING

1. The application that I am called upon to determine is dated 17<sup>th</sup> July 2012. The principal prayer sought in that application is for cancellation of grant of letters of administration made in **Kajiado Senior Resident Magistrate’s Court Succession Cause No. 47 of 2007**.
  2. The deceased died on 28<sup>th</sup> November 2003. It would appear that the deceased was a polygamist having married twice. Each of his households filed a separate succession case.
  3. One wife, Teresiah Wanjiku Mburu, filed her cause at Kajiado, being **Kajiado Senior Resident Magistrate’s Succession Cause No. 47 of 2007**, together with her children – Hannah Wangui Mburu and Anthony Njogu Mburu. A grant of letters of administration intestate was made to them on 6<sup>th</sup> August 2008. The said grant was confirmed on 30<sup>th</sup> July 2009 and a certificate of confirmation of grant issued to that effect.
  4. The other wife, Lucy Wambui Kahiro, commenced her cause at the High Court Nairobi, being this case, **High Court Succession Cause No. 2083 of 2007**. She sought the grant jointly with her son, Michael Muguro Mburu. A grant of letters of administration intestate was made to them on 14<sup>th</sup> December 2009. This grant has also been confirmed, and there is a certificate of confirmation of grant dated 14<sup>th</sup> February 2012.
  5. In both causes, the assets for distribution were Kajiado/Olchoro-Onyore/1494 and Kajiado/Olchoro-Onyore/258.
  6. This situation is no doubt untidy. There should not be two causes over the intestate estate of one individual, neither should more than one grant be made in such case. The existence of two causes over the same estate or property creates a situation similar to what obtains presently – where the same assets of the deceased herein have been distributed in two conflicting ways. In **High Court Succession Cause No. 2083 of 2007** – Kajiado/Ol’choro-Onyore/1494 is divided equally among the members of the house of Lucy Wambui Kahiro, while Kitengela/Ol’choro- Onyore/258 is divided equally among members of the house of Jean Wanjiku Mburu. In **Kajiado Senior Resident Magistrate Court Succession Cause No. 47 of 2007**, the two assets are divided only among members of the house of Teresia Wanjiku Mburu, where she holds the assets in trust for herself and her children.
4. The scenario is untenable and un-acceptable. I hereby make the following orders:-
- (a) That the two causes, that is to say **Nairobi High Court Succession Cause No. 2083 of 2007** and **Kajiado Senior Resident Magistrate’s Court Succession No. 2083 of 2007** are hereby consolidated with the land file being **High Court Succession Cause No. 2083 of 2007**;
  - (b) That the grants of letters of administration intestate made in both causes are hereby revoked;
  - (c) That the certificates of confirmation of grant issued in both causes are hereby cancelled, and any or all transactions carried out on the strength of the said grants are hereby nullified and revoked;
  - (d) That I appoint, Teresiah Wanjiku Mburu, Lucy Wambui Kahiro, Michael Muguro Mburu, and

Hannah Wangui Mburu administrators of the estate of Peter Mburu Mungai;

(e) That grant of letters of administration of intestate of the said estate shall issue to them out of **High Court Succession Cause No. 2083 of 2007**;

(f) That the administrators shall apply for confirmation of the said grant in the next 45 days; and

(g) That this matter shall be mentioned after 45 days for compliance.

**DATED, SIGNED and DELIVERED at NAIROBI this 31<sup>st</sup> DAY OF January, 2014.**

**W. MUSYOKA**

**JUDGE**