

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO: 1976 OF 1996

IN THE ESTATE OF THE ESTATE OF GODFREY NDEGWA KARIUKI – (DECEASED)

RULING

1. These proceedings relate to the estate of Godfrey Ndegwa Kariuki, who died on 5th June 1995 at the age of 81 years.
2. Representation to his estate was sought on 16th September 1996 by his sons Peter Kaniu alias Ndegwa Kariuki and Danson Kirika. Grant of letters of administrators intestate was made on 31st December 1996 to the two sons.
3. The grant was confirmed on 30th June 1998 following an application in that behalf by the administrators dated 5th June 1998 and filed in court on 16th June 1998. According to the certificate of confirmation of grant dated 30th June 1998 Joseph Mburu Ndegwa was allotted shares in Dagoretti/Riruta/653, Plot No.4 Mai Mahiu town and share certificate No. 855 LR No. 5964/2 Githurai Ting'ang'a Co. Ltd. Kijabe/Kijabe Block 1/1952 was allotted to Francis Mungai Ndegwa.
4. On 19th October 2010 Gacheche J. in Nairobi HCCC No. 76 of 1996 (OS) ordered that two additional administrators be nominated as administrators to act jointly with the administrators appointed in 1996.
5. On 12th April 2011, an application was filed in the cause for the revocation of the grant. It also sought cancellation of the certificate of confirmation of grant and annulment of all the transfers of land based on the said certificate of confirmation. The said application has not been disposed of to date.
6. During the pendency of the application dated 12th April 2011, another application, dated 12th April 2012, was filed in the cause seeking stay of the certificate of confirmation of grant, injunctive orders and an order for the putting the applicant into possession of Kijabe/Kijabe Block 1/1952.
7. The application dated on 12th April 2012 is founded on the claim by the applicant that the said Kijabe/Kijabe Block 1/1952 had been gifted to him *inter vivos* by the deceased. I have noted from the certificate of confirmation of grant that the same had been allotted to Francis Mungai Ndegwa. The applicant alleges that he has been evicted from the said parcel of land and he would like to be reinstated thereto pending the hearing and determination of the revocation application.
8. From the above background it is quite clear that there are serious outstanding issues touching on the administration and disposal of the estate of the deceased. Before these issues are resolved the administration of the estate cannot possibly be completed.
9. The journey to the resolution of the issues starts with the disposal of the revocation application. The determination of that application will decide the fate of the certificate of confirmation grant dated 30th June 1998.
10. Pending the determination of the said application *status quo* ought to be maintained, otherwise the said application will be rendered nugatory.
11. I therefore find merit in the application dated 12th April 2012. The same is not opposed. I will consequently grant it in the terms proposed by the applicant.

12. To move this cause forward, I do hereby direct the applicant in the application dated 12th April 2011 to have it fixed for hearing in the next 30 days in default of which the said application shall stand dismissed. The Deputy Registrar is directed to cause the said application to be given a date for hearing on a priority basis.

13. The matter shall be mentioned after 30 days on a date to be fixed at the delivery of this ruling.

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

W. MUSYOKA

JUDGE