



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**SUCCESSION CAUSE NO. 492 OF 2009**  
**IN THE MATTER OF THE MIRIAM GATHONI KURIA – (DECEASED)**  
**RULING/DIRECTIONS**

1. The administrators of the estate of the deceased have filed an affidavit sworn by themselves on 15<sup>th</sup> July 2013. The contents of the affidavit are to the effect that two beneficiaries have died:- John Njoroge Kuria and Mary Wanjiru Kuria. They have attached copies of letters from the chiefs of Thigio and Ndeiya Locations.
2. The letters from the Chiefs attest to the fact that John Njoroge Kuria died a single man without spouse and children; while Mary Wanjiru Kuria had been married to a Humprey Muturi Mundia.
3. The unstated intention in the filing of the affidavit sworn on 15<sup>th</sup> July 2013 is ostensibly to review my orders of 13<sup>th</sup> June 2013 with respect to these two individuals.
4. I had in an earlier ruling required the administrators to file a further affidavit to address the issues of whether John Njoroge Kuria and Mary Wanjiku Kuria had been married and whether they had children.
5. In view of the details given in the further affidavit I would allow the removal of the name of John Njoroge Kuria from the certificate of confirmed grant dated 20<sup>th</sup> December 2011.
6. Regarding Mary Wanjiku Kuria, I am mindful of the provisions of Part V in particular Section 41 of the Act of the Law of Succession Act. The fact that Mary Wanjiku Kuria was married is irrelevant and does not affect her estate's entitlement to a share in the estate of the deceased, given that the deceased died after the Act came into force. She had children, and by virtue of *Section 41* of the Act, the said children are entitled to substitute their deceased mother and take the shares due to her. Consequently, I cannot order the removal of the name of Mary Wanjiku Kuria from the certificate of confirmation of grant.
7. The name of the said Mary Wanjiku Kuria can only be removed from the certificate of confirmation of grant upon a deed of renunciation of right to inheritance by the children of the said Mary Wanjiku Kuria.
8. The final orders that I am disposed to make in this matter are as follows:-
  1. That the name of John Njoroge Kuria shall be removed from the certificate of confirmation of grant dated 20<sup>th</sup> December 2011;
  2. That the children of Mary Wanjiku Kuria shall file documents in court indicating whether or not they are interested in taking up the interest in the estate of the deceased due to their mother; and

3. That the matter shall be mentioned after thirty (30) days of compliance.

**DATED, SIGNED and DELIVERED at NAIROBI this 25<sup>th</sup> DAY OF April, 2014.**

**W. MUSYOKA**

**JUDGE**

**No appearance the applicant.**