



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**SUCCESSION CAUSE NO. 1823 OF 2009**

**AND**

**IN THE MATTER OF WANJIRU NJOROGE**

**(DECEASED)**

**RULING**

1. The grant herein was made on 7<sup>th</sup> December 2009 to John Koirugo Njoroge as administrator of the estate of his mother Wanjiru Njoroge.
2. The said Wanjiru Njoroge had died on 20<sup>th</sup> September 1997. She had two sons – Daniel Njenga Njoroge and John Koirugo Njoroge. By the time representation to her estate was being sought in 2009, Daniel Njenga Njoroge had died and was survived by a widow, Hannah Wambui Njenga.
3. The grant was confirmed on 26<sup>th</sup> January 2011. The estate comprised of one asset –Dagoretti/Riruta/230- measuring 2.21 acres or thereabout. It was available for distribution among the two survivors of the deceased and it was shared out equally between them, with each taking 1.105 acres. A certificate of confirmation of grant to that effect was issued dated 26<sup>th</sup> January 2011.
4. The administrator of the estate John Koirugo Njoroge, has come back to court by an application dated 4<sup>th</sup> June 2012 seeking orders to restrain his co-survivor – Hannah Wangui Njoroge – and others from interfering with the process of subdivision of the land in giving effect to the grant as per the certificate of confirmation of grant dated 26<sup>th</sup> January 2011. He complains that the 1<sup>st</sup> respondent and her children are interfering with the subdivision of the land.
5. There is no record to show that the application was served on the respondents. There is no affidavit of service on record. I note however that on 26<sup>th</sup> June 2012 Messrs Matwere & Co, Advocates filed a notice of appointment of advocates dated 22<sup>nd</sup> June 2012 purporting to have instructions from the respondents. The respondents did not reply to the application as there are no replying affidavits on record. The record however would indicate that the respondents were aware of the application as their counsel, Mr. Matwere or his representative, attended court on the dates that the matter came up on 24<sup>th</sup> April 2013, 3<sup>rd</sup> July 2013, 31<sup>st</sup> July 2013 and 31<sup>st</sup> July 2013.
6. I note that the applicant is the administrator of the estate by virtue of his being the holder of the grant of letters of administration dated 7<sup>th</sup> December 2009. It is his duty as such to administer the estate. As the grant has been confirmed, it is his duty to carry into effect the contents of the certificate of confirmation of grant dated 26<sup>th</sup> January 2011. Administration of the estate is complete once the assets are distributed. In this case distribution will be complete once Dagoretti/Riruta/230 is subdivided and the subsequent subdivisions vested in the two survivors. It is the administrator's duty to cause the subdivision and vesting of the property. He argues that the exercise is being frustrated by the respondents.
7. As the application is not opposed, I find no basis for disallowing it. Disallowing the same would be tantamount to exposing the administrator to frustration in the discharge of his responsibilities as such.

8. The application dated 4<sup>th</sup> June 2012 is hereby allowed. There shall be no order for costs.

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

**W. MUSYOKA**

**JUDGE**

**In the presence of Mr. Gatumuta for Mr. Munyoki advocate for the applicants.**

**No apperance for the respondents.**