

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

SUCCESSION CAUSE NO. 2180 OF 2008

IN THE MATTER OF THE ESTATE OF JEMIMA WANJIKU MUNYUA – (DECEASED)

RULING

1. This cause commenced on 17th September 2008 when an application was filed herein seeking revocation of the grant made in **Thika CM CSC No. 566 of 2005**. The said grant was confirmed on 22nd November 2006.
2. The revocation application is grounded on allegations that the said grant was obtained fraudulently, there was concealment from court of material facts and that there were untrue allegations of fact. The applicant alleges to have been married to the deceased under the Kikuyu customary law arrangement of woman-to-woman marriage. She says that she was not disclosed in the petition for the grant.
3. She has now moved the court in an application dated 14th December 2012 asking for various restraining orders pending the hearing and determination of the revocation application. This application was placed before me on 7th May 2013 and I did give restraining orders on temporary basis.
4. There is merit in this application. The grant in question was confirmed in 2006. The administrator must be seeking to implement the terms of the certificate of confirmation of grant dated 22nd November 2006, if she has not implemented the certificate already. If implementation is effected before the pending revocation application is disposed of, whatever orders are made by the on the revocation application court may be academic.
5. I am disposed to make the following orders:-
 - (a) That there be stay of the implementation of the terms of the certificate of confirmation of grant dated 22nd November 2006 issued in **Thika CM CSC No. 566 of 2005** pending the hearing and determination of the revocation application filed herein and dated 15th September 2008;
 - (b) That the Thika court file in **Thika Cause No. 566 of 2005** be availed for the purposes of the pending revocation application;
 - (c) That the Deputy Registrar is hereby ordered to give effect to (b) above;
 - (d) That this matter shall be mentioned after 30 days to confirm the availability of the Thika file.

DATED, SIGNED and DELIVERED at NAIROBI this 23rd DAY OF May 2014.

W. MUSYOKA

JUDGE

In the presence of Ms. Gakenia advocate for the applicant.

In the presence of Mr. Nyamuraga advocate for the respondent.