



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 3079 OF 2002**

**IN THE MATTER OF THE ESTATE OF JOSEPH GICHUKI RIUNGE –(DECEASED)**

**RULING/DIRECTIONS**

1. On 3<sup>rd</sup> April 2013, I cancelled the certificate of confirmation of grant dated 26<sup>th</sup> September 2005, and directed the administrators to file a fresh application for confirmation of grant within thirty (30) days of the order of 3<sup>rd</sup> April 2013, allotting shares in the estate individually to each of the persons named in the petition as children of the deceased. There was a further order that the administrators furnish accounts of their administration of the estate within thirty (30) days. Failure to comply with the said orders was to revert in the revocation of the grant made on 21<sup>st</sup> February 2003 to Theresa Wanjiru Riunge, Francis Kimani Gichuki, Francis Mburu Riunge and David Muniu Riunge.
2. The orders to file a fresh confirmation application and furnishing of accounts were not complied with hence the said grant stood automatically revoked after expiry of thirty (30) days from 3<sup>rd</sup> April 2013.
3. The parties have since filed several applications seeking injunctions and asking the court to appoint them as administrators of the estate. There is an application dated 28<sup>th</sup> May 2013 filed by David Muniu Riunge. There is another dated 25<sup>th</sup> June 2012 by Theresa Wanjiru Riunge. Josephine Njeri Riunge filed her own application dated 30<sup>th</sup> May 2013.
4. There is no basis for dealing with the pending applications so long as there are no administrators in place. Indeed the said applications are filed in abuse of process given that the administrators did not comply with the very clear orders made on 3<sup>rd</sup> April. Court orders are not made in vain. They are to be obeyed for failure to heed court orders exposes our system to cheat and anomaly. Kenya is supported to be a democracy, where the rule of law reigns. Disobedience of court orders is the anti-thesis of the principle of rule of law.
5. It is clear to me from what is on record they the survivors of the deceased are not able to agree on the administration and distribution of estate. They all appear to be in competition and acting in cross-principal. In such a situation the court has no option but to interview and given directory orders.
6. The final orders/directions that I will give in this matter are:-
  - (1) That the applications dated 28<sup>th</sup> May 2013, 30<sup>th</sup> May 2013 and 25<sup>th</sup> June 2013 are hereby struck out for being filed in abuse of process of court;
  - (2) That Theresa Wanjiru Riunge, Francis Kiman Gichuki, Francis Mburu Riunge and David Muniu Riunge shall show cause on 28<sup>th</sup> May 2014. Why they cannot be committed to civil jail for failing to comply with the orders made on 3<sup>rd</sup> April 2014; and
  - (3) That the Deputy Registrar shall issue appropriate notices for service upon the said Theresa Wanjiru Riunge, Francis Kimani Gichuki, Francis Mburu Riunge and David Muniu Riunge.

**DATED, SIGNED and DELIVERED at NAIROBI this 16<sup>th</sup> DAY OF May 2014.**

**W. MUSYOKA**

**JUDGE**

**Josephine Riungu party in person.**