



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
SUCCESSION CAUSE NO. 1940 OF 2008

IN THE MATTER OF THE ESTATE OF KAINDA MAUNDU –(DECEASED)

RULING

1. The deceased, Joyce Kainda Maundu, died intestate on 3rd March 2006. Representation to her estate was sought and obtained by two of her surviving children, Alex Musyoki Kithome and Faith Mwendu Kithome. A grant of letters of administration intestate was made to them on 24th November 2008.
2. According to the affidavit sworn in support of the petition for grant by the administrators, on 27th July 2008, the deceased was survived by seven (7) children- three sons and four daughters.
3. Confirmation of the said grant was sought on 30th June 2010 through an application dated 25th June 2010. The grant was confirmed on 31st January 2011 and the estate was shared out between one daughter and the three sons of the deceased. There is a certificate of confirmation of grant dated 31st January 2011.
4. On 2nd June 2011 a Summons for Revocation of grant was lodged in court, dated 26th May 2011, by Monica Mino Maundu and Paulina Ngoni Mwangangi. Their case being that they ought to have been listed in the administrators' petition as survivors and heirs of the deceased. They argue that the property forming the estate of Joyce Kainda Maundu, initially belonged to Maundu Munyoki. When the said Maundu Munyoki died in 1966 representation to his estate was given to his son, Jeremiah Kithome Maundu in 1968. The estate of Maundu Munyoki devolved upon the said Jeremiah Kithome Maundu. The said Jeremiah Kithome Maundu died in 1987. His widow, Joyce Kainda, moved the court with others and obtained representation to estate of Maundu Munyoki. The applicants herein state that Maundu Munyoki had three wives and devolution of his estate wholly upon Jeremiah Kithome Maundu meant that the other houses were deprived. The applicants herein are widow and daughter, respectively, of Maundu Munyoki. They claim a stake in the estate of Joyce Kainda Maundu under those circumstances, hence the instant application.
5. The administrators opposed the application, through an affidavit sworn on 13th January 2012 by Alex Munyoki Kithome. The said affidavit does not respond to the issues raised in the affidavits of the applicants.
6. The application was placed before Njagi J. on 28th February 2012, and was argued by counsel for the applicants and opposed by the first administrator, Alex Munyoki Kithome. Counsel for the applicants, Ms. Machuki, argued that the late Joyce Kaindi Maundu was one of the administrators of the estate of the late Maundu Munyoki in Nairobi **HCSC No. 2895 of 2005**. She argued that it

- was while so acting as administrator that he had the late Maundu Munyoki's property transferred to her name. The said property, she argues, therefore does not form part of the estate of the late Joyce Kaindi Maundu.
7. In reply to those submissions, Mr. Alex Kithome Maundu stated that the estate of Maundu Munyoki was distributed, amongst the deceased's two widows, one of whom was his father's mother.
 8. Ms. Maundu in rejoinder informed the court that **HCSC No. 2895 of 2005** has not been confirmed as the applicant was contesting the administration in that cause.
 9. From the material placed before me, it is clear that the instant cause, **HCSC No. 1940 of 2008** is very intimately intertwined with the estate of Maundu Munyoki. I note that two succession causes were initiated at this registry relating to the estate of the said Maundu Munyoki – being Nairobi **HCP&A No. 209 of 1968** and Nairobi **HCSC No. 2895 of 2005**. Both parties have made extensive references to the said estate. I feel I cannot do justice in this matter without first studying the proceedings in the two causes referred to above.
 10. The orders that I will make in the circumstances are:-
 - a. That the determination of the application dated 2nd June 2011 is hereby postponed pending the production of the court files in respect of Nairobi **HCP&A No. 209 of 1968** and Nairobi **HCSC No. 2895 of 2005**;
 - b. That the two files mentioned above shall be put together with the file in the instant cause and the matter herein mentioned on 28th May 2013; and
 - c. That the Deputy Registrar is hereby directed to give effect to (b) above.

DATED, SIGNED and DELIVERED at NAIROBI this 16th DAY OF May, 2014.

W. MUSYOKA

JUDGE

In the presence of Mrs. Abong'o advocate for the applicant.