

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 2795 OF 2003

IN THE MATTER OF THE ESTATE OF PAUL NGANGA GATHATA - (DECEASED)

RULING

1. I note that on 26th April 2010 Dulu J vacated the orders that confirmed the grant herein dated 17th December, 2007 and ordered that a fresh confirmation be sought within six months. This order was not complied with and the administrator by an application dated 15th September 2011 sought an extension of time to file a fresh application for confirmation of the grant.
2. On 18th November 2013, the court allowed the said application in the interest of justice so as to finally and fully settle the outstanding issues. The applicant was given 30 days to file and serve the application. Once again the order was not complied with.
3. The administrator has now come by a summons dated 3rd April 2014, and taken out under Rule 73 of the Probate and Administration Rules, seeking that (:) leave be granted for the filing of application for confirmation of the grant out of time and that the application for confirmation of grant attached to the said application be deemed as duly filed and served upon payment of the requisite fees.
4. The application dated 3rd April 2014 is premised on the grounds that the applicant was not notified of the orders made on 26th April 2010 and only came to learn about them three months after the expiry of the said period, upon perusal of the court file. He says that the delay in filing the said application has not been intentional.
5. I will give the applicant the benefit of doubt and grant the application to file application for confirmation of grant out of time, for I find it necessary for the ends of justice. Accordingly, the annexed Summons for Confirmation of the grant dated 3rd April 2014 is hereby deemed duly filed.

DATED, SIGNED and DELIVERED at NAIROBI this 24th DAY OF October, 2014.

W. MUSYOKA

JUDGE

In the presence of Mr. Makumi for Mr. Kamonde advocate for the respondent.