



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYERI**  
**SUCCESSION CAUSE NO.284 OF 1996**

**BETWEEN**

**IN THE MATTER OF THE ESTATE OF:**

**SAMUEL WAHOME GATHERU .....DECEASED**

**AND**

**ALICE WANJIRA NJOROGE )**

**REGINA WANJA WAHOME ) .....APPLICANTS/OBJECTORS**

**GLADYS WANGUI WAHOME )**

**JOHN NDURA WAHOME )**

**VERSUS**

**FESTUS GATHERU WAHOME )**

**WACHIURI WAHOME ) ..... RESPONDENTS/PETITIONERS**

**JACKSON KINYORI WAHOME)**

**PATRICK MBOGO WAHOME )**

**RULING**

1. By Summons General under **Rule 49** and **73** of **P&A rules** the applicant **Wachiuri Wahome** moved the court for an order:-

1. *THAT the honourable court be pleased to substitute the petitioner **Rebecca Muthoni Wahome** with the applicant **Wachiuri Wahome, Jackson Kinyori Wahome, Patrick Mbogo Wahome and Festus Gatheru Wahome.***
2. *THAT the court do issue an amended Grant of Letters of Administration and certificate of confirmation of grant reflecting the said changes.*

2. The application was supported by the annexed affidavit of **Wachiuri Wahome** wherein he deponed that the original petitioner **Rebecca Muthoni Wahome** passed away before she had fully administered the estate and that on 7<sup>th</sup> May 2014 the court issued a Limited Grant of Letters of Administration for

purposes of taking over the Grant and completing the administration of the estate of **Samuel Wahome Gatheru** in place of the said **Rebecca Muthoni Wahome**.

3. In reply to the said application **Patrick Mbogo Wahome** on 8<sup>th</sup> July 2014 filed a replying affidavit in which he deponed that the letters of Administration De Bonis Non was issued to him and his co-administrator on 7<sup>th</sup> May 2013 for purpose of completing the distribution of the estate herein and that the mother who was the original petitioner was entitled to a portion measuring 2.5 acres out of KIRIMUKUYU/KIRIA/17.

4. It was further deponed that him together with Festus Gatheru Wahome were of the considered view that the Estate can be fully administered if the said portion is transmitted to their sisters where one is applicant in summons for revocation of grant dated 15<sup>th</sup> May 2013. It was deponed that the grant should therefore be amended with a view of replacing their late mother with **Alice Wanjira Njoroge, Regina Wanja Wahome** and **Gladys Wangui Wahome**.

5. On 17<sup>th</sup> July 2014 **Gladys Wangui Wahome** filed a replying affidavit sworn on 16<sup>th</sup> July 2014 in which she deponed that she was a beneficiary of the Estate of **Rebecca Muthoni Wahome** and that together with her sisters have filed an objection to the letters of administration and therefore if the administrators are all substituted her application will be rendered nugatory in that they will have already subdivided the property of their deceased mother's portion which is the only one to be inherited by her and her sister.

#### Submissions

6. The applicant submitted that on 7<sup>th</sup> May 2013 they were issued with limited grant for the purposes of completing the administration of the estate which was partially done and therefore they would like an amended grant issued in place of the current one. It was submitted that the estate of **Rebecca Wahome** was the subject of **succession cause No.490 of 2009** and that the objection herein is an abuse of the court process.

7. Mr. Muchuri for the respondent submitted that there is an application for revocation of grant dated 15<sup>th</sup> May 2013 which has not been dealt with. Mrs. Githaiga for Gladys Wangui Wahome submitted that they had filed an application for revocation of grant herein and that if the land was to be transferred then the application for revocation will be rendered nugatory.

8. I have considered the pleadings herein and the submission above and note that there is an application which was filed by Githaiga P.W. & Co. Advocates on behalf of **Alice Wanjiru Njoroge, Regina Wanja Wahome, Gladys Wangui Wahome** and **John Ndura Wahome** in which they sought a conservatory order restraining the transfer or disposition of properties **Plot No.1 Ngurumo, Kirimukuyu/Karia68, Kirimukuyu/Karia/17** and **Kagaari/ Kanja/1863** and that the grant of letters of administration issued on 7<sup>th</sup> May 2013 to Wachuri Wahome and others be revoked.

9. It is also not disputed that on 7<sup>th</sup> May 2013 this honourable court issued letters of administration herein for the purposes of completing part of the remaining un-administered estate and in view of the ruling by Justice Serگون dated 2<sup>nd</sup> June 2010 which seems to have determined the issues in dispute as to whether there is unadministered estate and which was not brought to the court's attention at the time of making the order of 7<sup>th</sup> May 2013 in respect of the alleged un-administered estate of the deceased herein and in the interest of justice I hereby direct that the application dated 15<sup>th</sup> May 2013 be heard first before the grant herein is amended as sought by the applicant.

10. In view of the age of this matter, this file should be placed before the Resident Judge for direction on the application dated 15<sup>th</sup> May 2013 by virtue of **Section 73 of Law of Succession Act**. I grant temporary stay of the order issued on 7<sup>th</sup> May 2013 pending the determination of the application for revocation of grant with no order as to costs.

Signed and dated this    day of    2014

**J. WAKIAGA**

**JUDGE.**

**Delivered by Justice J. Ngaah on behalf of Justice J. Wakiaga this 18th day of December 2014**

**J. NGAAH**

**JUDGE.**

In the presence of:

----- for Applicants/Objectors

----- for Respondent/Petitioners