



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT EMBU

SUCCESSION CAUSE NO. 417 OF 2007

In the matter of the Estate of SARAH MUMBI NDAMBIRI (Deceased)

FAITH WAMBUI.....APPLICANT

VERSUS

MICHAEL MARUI NDAMBIRI &

FLORENCE WANJIRU WAITHANJE...RESPONDENTS

R U L I N G

The applicant Faith Wambui through her advocate Messrs Igati Mwai & Co. Advocates in her application dated 24/10/2014 seeks for orders:-

1. *That this application be certified as urgent and be heard ex parte in the first instance.*
2. *That the status quo over land parcel No. KABARE/NYANGATI/4031 be maintained on the ground, and on the Land Registry records pending the hearing and determination of this application for revocation of grant herein.*
3. *That the land Registrar Kirinyaga be prohibited from registering the grant issued to the respondent over land parcel KABARE/NYANGATI/4031 pending the hearing and determination of this matter.*
4. *Costs of this application be in cause.*

The grounds supporting the application are that there are summons for revocation of grant filed by the applicant in respect of LR. KABARE/NYANGATI/4031. The respondents who are administrators of the deceased's estate are said to be in the process of executing the grant which process may jeopardize the interests of the applicant.

The 1st respondent did not file a replying affidavit but responded to the application orally in court. He said that the applicant is his sister in law who has sold most of the deceased's land leaving only 1½ acres for the respondents. She has another land measuring 4 acres of her own. The 1st respondent did not in any way oppose the application. The 2nd respondent did not file a replying affidavit and did not attend court on the date of hearing.

The grant herein was confirmed on 20/12/2012 with the respondents getting their respective shares of 0.5 acres and 1 acre. The applicant's name does not feature in the list of dependants in Form P & A5. The applicant in the supporting affidavit depones that the deceased Sarah Muthoni Ndambiri is her mother. She alleges that the grant was obtained fraudulently through concealment of material facts. Having filed

summons for revocation of grant, the applicant ought to be given a chance to be heard before the grant can be executed.

I therefore find the application merited and allow it in terms of prayers 2 and 3 only.

It is hereby so ordered.

DELIVERED, DATED AND SIGNED AT EMBU THIS 16TH DAY OF DECEMBER, 2014.

F. MUCHEMI

J U D G E

In the presence of:-

1st Respondent Michael Marui

F. MUCHEMI

J U D G E