

REPUBLIC OF KENYA

HIGH COURT AT NAIROBI (NAIROBI LAW COURTS)

SUCCESSION CAUSE 2942 OF 1995

IN THE MATTER OF THE ESTATE OF THOMAS KIGOTHO KIBATHI (DECEASED)

RULING

The summons in general form dated 7th February 2013 seeks amendment of the grant of letters of administration made on 13th February 1996 to Patriciah Wanjiku Kigotho and Jacqueline Wambui Kigotho.

According to the evidence of Jacqueline Wambui Kigotho the said Patriciah Wanjiku Kigotho died on 28th December 2012. There is a certificate of death serial No: 235039 annexed to the affidavit in support of the application. She would like Patriciah Wanjiku Kigotho replaced with Elijah Kibathi Kigotho. All the surviving children of the deceased have signed a consent, dated 4th March 2013, supporting the appointment of the said Elijah Kibathi Kigotho as administrator.

The application is not premised on any provisions of the law, I note however that the grant of 13th February 1996 was made to two persons. A grant made to two persons is effective for as long as the two are alive. Should one of them die, the grant would become ineffective, inoperative and useless as the surviving grantee cannot operate with it so long as it bears the name of the dead co-grantee. According to **Section 76** of the Law of Succession Act, an inoperative grant is revocable. **Section 76** grants this court power to revoke a grant on its own motion. I exercise the power granted to me under the law to revoke the grant made on 13th February 1996 to Patriciah Wanjiku Kigotho and Jacqueline Wambui Kigotho on the ground that it has become useless and inoperative following the death of the said Patriciah Wanjiku Kigotho.

The applicant, with the support of her siblings, seeks the appointment of Elijah Kibathi Kigotho as administrator in the place of their mother. Consequently, I hereby appoint Jacqueline Wambui Kigotho and Elijah Kibathi Kigotho administrators of the estate of Thomas Kigotho Kibathi. A grant of letters of administration intestate shall issue to them accordingly.

It is ordered.

DATED, SIGNED and DELIVERED at NAIROBI this 29th DAY OF April, 2013.

W.M. Musyoka

Judge