



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MILIMANI**  
**SUCCESSION CAUSE NO. 1222 OF 1998**

**IN THE MATTER OF THE ESTATE OF NGUGI KIMANI – (DECEASED)**

**RULING**

The application dated 19th September 2012 seeks stay of execution of the certificate of confirmation of grant issued on 27th February 2008 till the application dated 28th February is heard and determined. The application dated 28th February 2011 seeks review of earlier orders made in 2008 and 2010.

The argument advanced in favour of the stay is that the objector is not a member of the family of the deceased, but a creditor or purchaser. The applicant says that he was not consulted when confirmation was sought.

In reply, the objector contends that the application is designed to delay distribution. The grant was confirmed way back in 2001 and amended in 2008, and all that while the objector's name was in the list of beneficiaries, yet the applicant did come forward until now. He has not been cooperative.

I have perused the entire court record file. I have noted that there is a certificate of confirmation of grant dated 19th December 2001. In the schedule, the objector, Gitiha Nganga, is awarded 0.75 acre out of Limuru/Mbaari ya Igi/3. The certificate of confirmation was issued pursuant to an application by way of summons for confirmation of grant dated 8th November 2001. A form of consent to confirmation of grant filed with the application bears a signature against the name of the applicant, Geoffrey Kimani Wandathua.

The record also shows that the said certificate of confirmation was amended on 27th February 2008. The amended certificate still bears the name of Gitiha Nganga against a share of 0.75 in Limuru/Mbaari ya Igi/3.

The applicant's applications came in 2011 and 2012, the certificate of confirmation was issued in 2001 and amended in 2008. There is considerable gap in the years. The applicant has not sought to explain the delay in coming forward to complain that Gitiha Nganga should not get a share in the estate. Where was he all this time? Delay never aids the indolent. It disentitles them to favourable exercise of discretion.

I am not convinced that the application dated 19th September 2012 should be allowed. I decline to exercise my discretion to give the stay sought. The application is dismissed. Gitiha Nganga is entitled to and is awarded costs thereof.

**SIGNED DATED and DELIVERED** in open court this **30TH** day of **August, 2013**.

**W.M. MUSYOKA**

**JUDGE**