

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

SUCCESSION CAUSE NO. 2602 OF 1994

IN THE MATTER OF THE ESTATE OF HENRY MUNGAI MUIKAMBA (DECEASED)

JUDGEMENT

The application dated 18th November 2009 is for revocation or annulment of grant. It is drawn by an unrepresented party. The application is remarkably vague. It does not clearly identify the grant sought to be revoked. It raises only one ground, that the executors of the estate forged ***“the consents as they did not include all the beneficiaries.”*** The consents referred to are not identified and the affidavits in support of the application do not shed any light at all on the matter.

The deceased died on 24th August 1994. The initial grant was made on 28th February 1995 to Reuben Gathigu Mungai and Ndungu Kamoni Mungai, both surviving sons of the deceased. That grant was revoked on 27th September 1999 by Kasanga Mulwa J. It was after that that the current administrators were appointed.

I, however, note that the current administrators are mother and son. The deceased had two families, that of the applicants on the one hand and that of the respondents on the other hand. It has been held previously that where the deceased was a polygamist both houses ought to be represented in the administration of the estate. That position has not been honoured in this case.

The application dated 18th November 2009 does not make out a case for the revocation of the grant. I am, however, persuaded that for the sake of transparency and inclusiveness that the first house ought to be represented in the administration of the estate.

Consequently, I order rectification of the grant last rectified on 28th 2004, to include the name of Ndungu Kamoni Mungai to represent his mother's side of the family in the administration of the estate. The certificate of confirmation of grant dated 26th June 2004 shall be similarly amended to include the name of Ndungu Kamoni Mungai as administrator . Costs shall be in the cause.

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

W.M. MUSYOKA

JUDGE