



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NYERI**

**SUCCESSION CAUSE NO. 882 OF 2010**

**IN THE MATTER OF THE ESTATE OF MWANGI MURA -(DECEASED)**

NJOGU MWANGI MURA.....1ST APPLICANT

ESTHER MUTHONI NJOGU .....2ND APPLICANT

JOHN WAINAINA .....3RD APPLICANT

VERSUS

NGANGA MWANGI ..... 1ST RESPONDENT

PETER MURIGI KIRIGA .....2ND RESPONDENT

**JUDGMENT**

The subject matter of this judgment is the summons for the revocation of grant dated 4th October, 2010 taken out by **Njogu Mwangi Mura, Esther Muthoni Njogu and John Wainaina** hereinafter referred to as the Applicants. The two sought for the confirmed grant to be revoked. The Applicants relied on two grounds. **First**, that the court which confirmed the grant had no pecuniary jurisdiction to hear and determined the dispute. **Secondly**, that the grant was confirmed by the making of a false statement or by the concealment from court of something material to the case. It is said that **Nganga Mwangi** and **Peter Murigi Kiriga**, the Respondents herein failed to disclose that the Applicants were also beneficiaries to the Estate.

The Respondents filed the affidavit of Peter Murigi Kiriga to oppose the summons for revocation of grant. They claimed that the 1st Applicant was involved in the succession proceedings from the beginning and that the 2nd and 3rd Applicants have misled him to take the summons.

I have considered the averments set out in the rival affidavits. I have also considered the submissions filed by both sides. It is quite clear that the asset of the Estate i.e **Loc.7/Ichagaki/565** valued approximately Kshs. 200,000/=. By dint of **Section 48** of the **Law of Succession Act** the Principal Magistrate's court at Kigumo had no pecuniary jurisdiction to hear and determine the succession cause. I have also noted that the 2nd and 3rd Respondents rank *parri parsu* with the 1st Applicant and the 1st Respondent to inherit the deceased's Estate, but they were omitted from sharing equally the Estate. I find the aforesaid grounds to justify the granting of the orders. Consequently, the summons for revocation of grant dated 4th October, 2010 is allowed as prayed. Since the parties are close family members, I direct that each party meets his or her own costs.

**Dated, signed and delivered this 23rd day of August, 2013**

**J.K. SERGON**

**JUDGE**

In open court in the presence of Muthoni holding brief for

Kirubi for Respondent

N/A Kimwere for Applicant