

Wambui Njoroge and is based on the grounds that –

- (a) *The Respondent has been inter-meddling with the estate herein.*
- (b) *He has been collecting the rents and keeping the money to himself to the detriment of the other beneficiaries.*
- (c) *The beneficiaries are not likely to agree on the mode of distribution of the estate any time soon.*

At the oral canvassing of this application, Ms. Njuguna appeared for four beneficiaries, Mr. Kamiro for Bernard Njoroge and Charles Kiarie Njoroge appeared in person. Without going into unnecessary and uncalled for details, I note that the issues raised in the supporting affidavit of Esther Wambui Njoroge are very weighty. I agree with the sentiments expressed therein that it is important for the assets belonging to the estate to be collected and brought into a common pool so that the distribution of the estate would be fair to all. It is neither in order nor in the interests of other beneficiaries for one person to be pocketing the bulk of monies collected in the name of the estate.

I am concerned however about one development. Before the hearing of this application, I note that the matter had last been before Maraga, J., as he then was, on 25th October, 2011. The matter slated for hearing on that date was an application by Chamber Summons dated 12th July, 2011 seeking the exclusion of Charles Kiarie Njoroge as one of the administrators to the estate of the deceased and the administrators to the estate be retained as Esther Wambui Njoroge and Peter Mwaura Njoroge. When the matter came for hearing, the notes made by the learned Judge read as follows –

“By consent the application dated 12th July, 2011 is hereby withdrawn with order as to costs. Administrators to apply for confirmation within 30 days.”

The 30 days given by the Court for applying for confirmation of the grant expired on or about 25th November, 2011. It was not until 19th December, 2011 that the present application was filed, and it was not an application for confirmation of the grant as directed by Judge Maraga. As we speak now, the order made by the Judge seems to have been swept under the carpet, and a Court will not allow its orders to be made in vain. We cannot afford to change course mid-stream. It may well be that if the parties had heeded the Court orders and made an application for confirmation of the grant, some progress would have been made in this matter leading towards its finalization. As it stands now, it is as if we are moving in a whirlpool and unless such movement is checked, a lot more time and resources will go down the drain.

For the above reasons, I am constrained to strike out this application, which I hereby do, pending the filing of an application for confirmation of the grant, as previously directed by the Court, within a further 30 days from today.

Costs will be in the Cause.

Orders accordingly.

DATED and DELIVERED at NAIROBI this 29th day of February, 2012.

L. NJAGI

JUDGE