



**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**IN THE MATTER OF THE ESTATE OF DAVID MBUGUA NJIIRI (DECEASED)**

**RULING/DIRECTIONS**

Before the issue of an application by Summons dated 26<sup>th</sup> September, 2011 could be finalized, the Court noted and informed Mr. Kariuki, who was holding brief for Mr. Chege for the Administrators/Applicants, that there was an application for Revocation of Grant dated 10<sup>th</sup> March, 2000 which was still pending and which should be disposed of first. The matter was then listed for mention on 24<sup>th</sup> April, 2012 for taking a hearing date. The Court also directed that a Mention Notice do issue.

When the matter was called out on 24<sup>th</sup> April, 2012, Mr. Chege appeared for the Applicant. Ms. Lilian Muthoni Mbugua was in attendance. Mr. Chege then addressed the Court. He said that the gist of the application before the Court was to place the name of Lilian Muthoni Mbugua in place of her late husband, Mr. Mbugua, as the registered proprietor of Title Number Nudumberi/Ndumberi/1042 pursuant to the grant herein amended on 17<sup>th</sup> March, 2000. He submitted that the application dated 10<sup>th</sup> March, 2000 was overtaken by events as it was now 12 years old and it had not been prosecuted. It would appear that the Applicant therein had lost interest in it. He then asked the Court to grant orders as prayed in the application by Chamber Summons dated 26<sup>th</sup> September, 2011.

The application dated 10<sup>th</sup> March, 2000 holds a vital key to this matter. To start with, the Grant of Letters of Administration intestate in this matter was issued on 25<sup>th</sup> May, 1998 to the said Lilian Muthoni Mbugua and one Duncan Kirui Muthiora, in their capacity as “widow and cousin of the deceased”, respectively. The said grant was confirmed on 12<sup>th</sup> July, 1999. Subsequently, Lilian sought an amendment to the grant by, *inter alia*, substituting the name of Duncan Kirui Muthiora with Lilian’s sister, Ann Wairimu Kiarie, on the ground that Lilian and Muthiora were not related, and that Lilian’s mother-in-law was not happy with Duncan Muthiora. Indeed, by an affidavit sworn by said Muthiora on 16<sup>th</sup> March in support of Lilian’s application for the former’s removal as an Administrator, Mr. Muthiora deposes that the deceased was his close friend. Yet, in the petition for the Grant of Letters of Administration intestate filed in Court on 27<sup>th</sup> March, 1998, the parties stated that they presented the petition in their capacity as “the widow and the cousin of the deceased.”

As if that were not enough, Alice Warigia, in her affidavit in support of the Summons for Revocation of Grant, attests that she is the mother of the deceased and that Lilian was not her son’s widow, and that Muthiora was a stranger to their family.

Without going into the merits or otherwise of these depositions, they raise issues which are so serious that they need to be probed. In my view, the application for revocation should be heard before any other application. If Lilian is found wanting, then the application dated 26<sup>th</sup> September, 2011 will be in jeopardy.

I therefore direct that the application by Summons for Revocation be served for hearing on a date to be taken at the Registry on priority basis.

It is so ordered.

**DATED and DELIVERED at NAIROBI** this 3<sup>rd</sup> day of May, 2012.

**L. NJAGI**  
**JUDGE**