



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

Succession Cause 361 of 2010

IN THE MATTER OF THE ESTATE OF M'INOTI M'RIRIA-DECEASED.

ZIPPORAH KARURU INOTI.....PETITIONER

VERSUS

BETH MPINDA.....APPLICANT

RULING

The application is dated 18th June 2012. It is an application for Annulment of Grant and for Inhibition. It has been brought under S71 (2) and S76 of the Law of Succession Act Rule 44 of P& A Rules and S68 of the Land Registration Act. The application seeks prayers 2,3, 4 & 5 which are:-

- 1.THAT this Honourable Court do grant an order of inhibition on L.R.NO.NTIMA/NTAKIRA/178 to preserve the subject matter.
- 2.THAT the confirmed grant of letters of administration dated 2/11/2011 issued to the petitioner/respondent herein be revoked or annulled.
- 3.THAT the confirmed grant of letters of administration dated 2/11/2011 the Honourable Court do order a fresh and fair distribution of the estate of the deceased.
- 4.Costs of this application be paid by the petitioner/Respondent.

The application is premised on following grounds namely:

1. THAT the proceedings to obtain the Grant were defective in substance.
2. THAT the Grant was obtained by reliance on false statements, no-disclosure and concealment of important matter or information.
3. THAT the petitioner in particular refused and or concealed the fact the applicant/Objector is the sister of the petitioner

4. THAT the petitioner secretly filed the petition without the consent or knowledge or the Applicant/Objector.

The application is supported by an affidavit sworn by the objector. The gist is that the petitioner, a sister of the objector, applied for the letters of administration secretly without informing the objector. It is also contended that the objector's name was omitted altogether in the petition and confirmed grant.

The application is opposed. The petitioner, who is the respondent herein contended that the letters of administration were not taken out secretly. She contends that the objector denounced her rights to claim any portion of their deceased father's estate. That it was for that reason that the objectors name was left out and why she has not been offered any share of the estate.

I have considered submission by Mr. Gituma and also The petitioner. What is unopposed is fact the objector was

not declared a beneficiary of the deceased anywhere in the petition. That alone flouts the provisions of section 76 of the Law of Succession Act. The petitioner should have disclosed in the documents/petition that the objector is a child of the deceased. That failure is sufficient to annul the full grant that was issued by this court as there was non disclosure of matters material to the cause.

As to whether the objector renounced any desire to share from the deceased estate, that too should have been done openly and on the record. As it were, it is a contentious issue whether the objector indicated a desire not to share in the deceased estate. For these reasons I will allow the application in terms of orders 2, 3 & 4:

1. THAT an order of inhibition be and is hereby issued against L.R.NO.NTIMA/NTAKIRA/178.

2. THAT the confirmed grant of letters of administration dated 2/11/2011 issued to the petitioner/respondent herein be and is hereby revoked or annulled.

3. THAT a fresh and fair distribution of the estate of the deceased for purposes of the confirmation of the grant be done.

4. Costs of this application be paid by the petitioner/Respondent.

Dated, signed and delivered on 31st July 2012

LESIIT, J

JUDGE