



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KAKAMEGA**

**MISC. CIVIL APPLICATION NO. 59 OF 2006**

**IN THE MATTER OF THE ESTATE OF WILSON ALLAN KARANI alias  
WILSON KARANI ..... DECEASED**

**AND**

**HENRY ASAVA KARANI ..... RESPONDENT/PETITIONER**

**VERSUS**

**JOSEPH ADEDE KARANI  
STEPHEN BARANGA KARANI .....**

**APPLICANTS/OBJECTORS**

**RULING**

1. The deceased herein, **Wilson Allan Karani** alias **Wilson Karani** died on 26.7.1996 and although a grant of letters of administration was made to **Henry Asava Karani** on 14.11.2000 and the same confirmed on 27.9.2002, by a Summons dated 6.3.2006, **Joseph Adele Karani** and **Stephen Barang'a Karani** sought to revoke the grant for reasons inter-alia that Henry Asava Karani was wasting the deceased's estate and was acting without any regard to the Applicant's interests as sons of the deceased and beneficiaries of the estate.
2. What is before me now is a Chamber Summons dated 11.7.2008 premised on **section 47** of the Law of Succession Act and Rules **49, 59(2)** and **73** of the Probate and Administration Rules. The specific orders sought are that;
  1. ***"That this application be certified as urgent and be heard ex parte in the first instance.***
  2. ***That pending the hearing and determination of this summons, an injunction do issue restraining Henry Asava Karani the executor herein and his agents, [and] servants from wasting, damaging, alienating, selling, transferring or any way whatsoever dealing with the estate properties being Maragoli/Mbale 1-26N. Maragoli/Mbale/1028, N. Maragoli/Mbale/1275, Kakamega/Bugonda/2269 and Nairobi South "C" L.R. no.13324/66.***
  3. ***That pending the hearing and determination of the summons for revocation of grant filed herein an injunction do issue restraining Henry Asava Karani, the executor herein, and his agents, [and] servants from wasting, damaging, alienating, selling, transferring or any way whatsoever dealing with the estate properties being Maragoli/Mbale 1-26N. Maragoli/Mbale/1028, N. Maragoli/Mbale/1275,***

**Kakamega/Bugonda/2269 and Nairobi South “C” L.R. no.13324/66.**

**4. That an order do issue directing Henry Asava Karani to account for the proceeds of rents accruing from the estate properties being Maragoli/Mbale 1-26 N. Maragoli/Mbale/1028, Kakamega/Bugonda/2269 and Nairobi South “C” L.R. 4264 and IR.R no. 13324/66 and that the said Henry Asava Karani do deposit the said proceeds in court or alternatively in an interest earning account pending the hearing of the summons for revocation of grant.**

**5. That this Honourable court do issue such further orders as the Honourable court may deem necessary for ends of justice to be met.**

**6. That the costs of this application be provided for.”**

3. The grounds in support are that;

**1. “That the applicants are beneficiaries [of] the Will but have been disinherited and the same are being wasted on account of the actions of the executors. (sic)**

**2. That the executor of the Will has failed to transfer the properties herein to the beneficiaries.**

**3. That the executor of the Will fraudulently got the grant and certificate of confirmation of grant.**

**4. That the executor of the will has failed to account for monies received on account of rents from the estate properties.**

**5. That the Applicants herein have a good case with a high probability of success and unless the executor is restrained by order of this court the applicants will suffer irreparable loss and damage.”**

4. In their Supporting Affidavit sworn on 11.7.2008, Joseph Raynold Adede Karani deponed that the deceased left a valid written will (annexed to the Affidavit) and in it, he nominated his sister, Ruth Musimbi to be the executor thereof. She was to hold the estate in trust for the Applicants who were to benefit from it in equal shares.

5. That the Petitioner/Respondent, who was their uncle had no lawful interest in the estate and obtained the grant fraudulently and to the exclusion of the lawful executor of the Will and the beneficiaries of the estate. That although the Applicants have attained the age of majority, the Respondent has refused to hand-over the estate to them hence the need to preserve it pending hearing of the Summons for Revocation of grant.

6. I have seen no response from the Respondent and in any event, having seen the Will annexed to the Application, prima facie, it seems to me that the proceedings that were filed by the Respondent viz – Vihiga SRM’s Court, Succession Cause no. 22/2000 may have been irregular because he indicated that the deceased died intestate while he may have actually died, testate.

7. In the event and to protect the estate, I will grant prayers 3 and 4 of the Summons dated 11.7.2008.

8. Costs shall be in the cause.

**Delivered, dated and signed at Kakamega this 14<sup>th</sup> day of April, 2011**

**ISAAC LENAOLA  
J U D G E**