



SUCCESSION

· An administrator will be removed from administration of estate where he fail to execute a confirmed grant.

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

SUCCESSION CAUSE NO. 263 OF 1995

IN THE MATTER OF THE ESTATE OF THE LATE FRANCIS M'MARETE RUGARU (DECEASED)

RAEL NAITO RINGERA PETITIONER

VERSUS

ALICE NJIRU MUCHEKE OBJECTOR

RULING

By the judgment of this court dated 15th May 2007 the court determined the distribution of this estate. There is a notice of appeal filed against that judgment filed by Martin Mwiti Francis and Joshua Muthuri Francis. They seek to appeal against the whole of that judgment. By an application dated 30th May 2007 Martin Mwiti sought stay of the judgment dated 15th May 2007 pending appeal. By a ruling dated 25th July 2008 this court dismissed that application for stay of that judgment. Despite that dismissal, the administrator Rael Naito Ringera has not taken any action to effect distribution of this estate as per the judgment dated 15th May 2007. By her very action she has accorded Martin Mwiti the stay that the court rejected. An application dated 13th January 2009 by Chamber Summons has been filed by Alice Njiru seeking that this court do empower the executive officer to sign documents of transfer to put to effect that judgment. It is that application which is under consideration in this ruling. Alice in her affidavit in support of the application deponed that Rael was granted letters of administration on 13th May 1997. That despite the judgment dated 15th May 2007 Rael has failed to transfer the properties as per that judgment. The application was opposed by Martin Mwiti by his replying affidavit sworn on 1st April 2009. The essence of that replying affidavit is that the distribution should await the pending appeal. This court having dismissed the application for stay of execution of the judgment dated 15th May 2007 there is no basis for not to distribute the estate as per that judgment. That is my finding and I accordingly grant the following orders:-

1. The grant issued to Rael Naito Ringera herein is revoked.

2. *A fresh grant is hereby issued to Alice Njiru Mucheke.*
3. *The said grant to Alice Njiru Mucheke shall be confirmed immediately as per this court's judgment dated 15th May 2007.*
4. *There shall be no orders as to costs in respect of the Chamber Summons dated 13th January 2009.*

Dated, signed and delivered at Meru this 13th day of April 2011.

**MARY KASANGO
JUDGE**