



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI
SUCCESSION CAUSE NO. 362 OF 2001

IN THE MATTER OF THE ESTATE OF MIGWI MARIGA DECEASED
FRANCIS NGUNJIRI MIGWI
ALEX NGOTHO MIGWI.....APPLICANTS

RULING

Pursuant to the Provisions of S. 76 of the Law of Succession Act and Rules 44(1) and 73 of the Probate and Administration Rules, Francis Ngunjiri Migwi and Alex Ngotho Migwi, hereinafter referred to as the applicants, applied for the grant issued to Joyce Wanjugu Migwi and Mugure Migwi on 8th November 1990 to be revoked and that a fresh grant be issued to them in their place. The application is supported by the affidavit of Francis Ngunjiri Migwi. Directions were given directing the summons to be determined by affidavit evidence.

I have considered the affidavit evidence. The main ground argued in support of the application is that a grant of letters of administration intestate in respect of the estate of Migwi Mariga alias Migui Mariga alias Thui Mariga, deceased was issued in the joint names of Joyce Wanjugu Migwi and Mugure Migwi on 8th November 1990. The duo died before completing the administration of the estate hence the grant has become useless and inoperative. The applicants aver that upon the demise of the administratrixes the estate has remained unadministered. I have perused the affidavit plus the attached annexures and it is apparent that Joyce Wanjugu Migwi died on 21st May 1999 while Mugure Migwi died on 25th April 1995. Both died before the grant was confirmed. The duo were the widows of the deceased. The applicants herein aver that they are the only surviving beneficiaries of the estate. I have perused the affidavit of Joyce Wanjugu sworn on 21st September 1989 filed in support of the petition of letters of administration intestate. In that affidavit the following were named as surviving the deceased:

Joyce Wanjugu Migwi	-	wife
Mugure Migwi	-	wife
Benedetto Wairungu	-	son
Wanjiru Migwi	-	daughter
Francis Ngunjiri Migwi	-	son

Muthoni Migwi - **daughter**
Wangui Migwi - **daughter**
Lucy Wahito Migwi - **daughter**
Alex Wairungu Migwi - **son**
Ngotho Migwi - **son.**

Francis Ngunjiri Migwi also restated the above named individuals as surviving the deceased in his affidavit deponed on 18th July 1994 and filed in support of his application to replace his mother Joyce Wanjugu Migwi, deceased to jointly administer the estate with Mugure Migwi. It is therefore erroneous for the applicants herein to depone on oath that they are the only beneficiaries of the estate of the deceased. That averment alone can be a fertile ground to annul the grant. I will at this stage caution the applicants that they must make a full disclosure of the facts at any stage otherwise they risk being denied the orders. I am convinced that the grant issued to the deceased administratrixes has been rendered useless and inoperative because of their demise. The applicants are therefore entitled to the orders sought. I grant them the orders. They may apply for the grant to be confirmed notwithstanding that six months will not have lapsed. Costs of the application shall be in the cause.

Dated and delivered this 8th day of April 2011.

J.K. SERGON

JUDGE

In open court in the absence of parties with notice.

J.K. SERGON

JUDGE