



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYERI

SUCCESSION CAUSE NO. 375 OF 2005

IN THE MATTER OF THE ESTATE OF MUNENE GITONGA (DECEASED)

JULIUS MACHARIA MUNENE & 7 OTHERS.....APPLICANTS

VERSUS

VERONICA MUKAMI NDIANGUI.....RESPONDENT

RULING

Julius Macharia Munene and 7 others filed the Summons for Revocation of Grant dated 21st October 2010. In the aforesaid Summons, the Applicants are seeking for the grant given to Veronichah Mukami Ndiangui and Peter Gitonga Munene to be revoked. The Applicants accused the aforesaid administrators of having colluded to file secretly succession proceedings in respect of the Estate of Munene Gitonga, deceased. It is stated that all the female beneficiaries of the Estate were left out of the sharing of the Estate. The Applicants further complained that the grant was confirmed and the Estate distributed even before the debts due from the Estate have been settled. The applicants urged this court to revoke the grant and proceed to issue fresh grants to Julius Macharia Munene and Veronichah Mukami Ndiangui.

The 2nd Respondent, opposed the application claiming that some of the beneficiaries are purchasers hence they are strangers to the Estate. The Respondent further alluded that the Applicants were aware of these proceedings all along hence they should have filed their objections before the grant was confirmed. The Respondent admitted that the daughters of the deceased were not included because some land was to be purchased for them somewhere in Narumoru.

Having considered the rival submissions, it has now become clear that some of the beneficiaries of the Estate i.e. the deceased's daughters were excluded from the sharing of the Assets. They have not directly or by conduct waived their right to inherit. It is also obvious that the debts due from the Estate have not been settled. It is trite law that it is only the net Estate that is available for distribution. In this case, if the Estate liabilities have not been settled, then it cannot be said that the assets are net assets of the Estate. I

am convinced that the confirmed grant should be revoked which I hereby order. I direct that a fresh grant be issued in the joint names of Julius Macharia Munene and Veronicah Mukami Ndiangui. They may apply jointly or separately for the confirmation of grant notwithstanding that six months have not lapsed from this date. Each party to bear his or her own costs.

Dated and delivered at Nyeri this 29th day of July 2011.

J. K. SERGON

JUDGE

In open court in the presence of Karweru for Applicant and Miss Keli for 1st Respondent and the 2nd Respondent in person.

J. K. SERGON

JUDGE