

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYERI

SUCCESSION CAUSE NO. 258'A' OF 2006

IN THE MATTER OF THE ESTATE OF PETER KINGORI THAIRU (DECEASED)

JUMA GATIMU KINGORI.....APPLICANT

VERSUS

RAHAB NYARUAI KINGORI.....RESPONDENT

RULING

A Grant of Letters of Administration intestate in respect of the Estate of Peter Kingori Thairu, deceased, was given to Rahab Nyaruai Kingori, the respondent herein, on 12th October 2007. The aforesaid grant was rectified on 27th July 2009. Juma Gatimu Kingori, the Applicant herein, has applied for the grant to be revoked on the basis that the Respondent obtained the grant by concealing material facts from the Court. It is alleged that she did not reveal the names of some of the heirs of the deceased. It is also alleged that the respondent concealed the fact that the deceased had four wives yet the Respondent distributed the Estate in a manner favourable to two houses. The Applicant further alleged that since his mother was buried in **L.R. NO. AGUTHI/GATITU/2114**, he and his siblings were entitled to inherit that land. The applicants alleged that some strangers namely Symon Kanini Wachira and John Chege Muchina, were introduced to the Estate as purchasers to disinherit the rightful heirs. The Respondent vehemently denied the Applicant's allegations. It is alleged that the Applicant was involved in the Succession proceedings throughout but he developed no interest.

I have considered the grounds stated on the face of the Summons for revocation of Grant and the facts deponed in the affidavits filed for and against the Summons. I have also considered the rival submissions. I find that the Applicant was aware of these proceedings and had ample opportunity to file any objection if he felt aggrieved. I am satisfied that the respondent is not guilty of any material concealment of matters material to this cause. I am also convinced that by the time of his death the deceased had shared out most of his real assets leaving a few for the Respondent to distribute. It is clear from the affidavit evidence that one Isaac Thairu had been given most of his share hence his two daughters namely Wangechi Thairu and Muthoni Thairu were not entitled to claim anything from the deceased's Estate. I have also considered the allegation that some strangers were introduced to the proceedings as purchasers. That allegation flies on the face of evidence. There is evidence that one Moses Mwangi had sold his portion. I am convinced the Applicant also filed the Summons after an inordinate delay.

In the end I see no merit in the Summons for annulment of grant. It is dismissed. Each party to bear his or her own costs.

Dated and delivered at Nyeri this 14th day of October 2011.

**J. K. SERGON
JUDGE**

In open court in the presence of Mr. A Kariuki holding brief for Kiminda for Applicant and Mr. Nderi

holding brief for K. Wachira for the Respondent.