



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYERI

SUCCESSION CAUSE NO. 159 OF 2001

IN THE MATTER OF THE ESTATE OF KARINGITHI KIBIA – DECEASED

CHARLES MWANGI KARINGITHI.....1ST APPLICANT
GEORGE MURIMI KARINGITHI..... 2ND APPLICANT
ELIZABETH WANGUI MWANGI.....3RD APPLICANT

VERSUS

EUNICE WANJUGU KARINGITHI.....RESPONDENT

JUDGMENT

The subject matter of this Judgment is the Summons for Revocation of grant dated 5th August 2002 taken out by Charles Mwangi Karingithi, George Murimi Karingithi and Elizabeth Wangui Mwangi the 1st, 2nd and 3rd Applicants respectively. In the aforesaid Summons the Applicants sought for the grant of Letters of Administration intestate in respect of the Estate of Karingithi Kibia, deceased, issued to Eunice Wanjugu Karingithi on 19th April 2002 to be revoked or annulled. The Summons is supported by the affidavit of Charles Mwangi Karingithi and the further affidavits of each of the Applicants. Eunice Wanjugu Karingithi, the Respondent herein, filed a replying affidavit to oppose the Summons. Learned counsels appearing in the matter recorded a consent order to have the Summons disposed of by written submissions.

I have considered the rival submissions plus the material placed before this court. It is alleged that the grant should be revoked because the Respondent obtained the same by making an untrue allegation of fact and by concealing certain material facts. It is also alleged that the grant was obtained surreptitiously without the knowledge of the Applicants hence they could not protest when the same came up for confirmation. It is alleged that the Respondent has solely inherited the deceased's Estate yet the Applicants are dependants of the deceased's Estate. The Respondent disclosed to this Court that the Applicants are her children. She presented a schedule of distribution of the assets which she stated to be fair.

A critical examination of the affidavit evidence and the submissions will reveal that the applicants have failed to discharge the burden of proof of their allegations. The respondent specifically stated in her replying affidavit that she has given the Applicants property in equal proportion. I am convinced that the Applicants have not been disinherited by their mother in her distribution of the deceased Estate.

The Summons for revocation or annulment of grant is dismissed with no order as to costs.

Dated and delivered at Nyeri this 18th day of November 2011.

J. K. SERGON
JUDGE

In open court in the presence of Miss Mwai for applicant. No appearance Wahome for Respondent.