

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Probate & Administration 2601 of 2007
IN THE MATTER OF THE ESTATE OF PROFESSOR ELIZABETH WANJIRU MWATHA
[DECEASED]

RULING:

In this matter an application for confirmation of grant of probate was filed on 27th January 2009. It is a matter that relates to the succession cause for the estate of the late PROF. WANJIRU ELIZABETH MWATHA. There is a will by the deceased which was filed in Court. The only asset on which a copy of a document was filed, is Nairobi Block 79/723 in the joint names of JOSEPH KAMBUTU MWATHA and ELIZA WANJIRU MWATHA. An affidavit sworn by Kamamo Kuria, one of the administrators on 8th June 2009 discloses for the first time that the said JOSEPH KAMBUTU MWATHA is the deceased's husband. He was not disclosed as a survivor of the deceased though he appears to be still living, in addition, the said affidavit contains hearsay information such as paragraph 2 and paragraph 6. In the circumstances of this case therefore, I direct as follows:-

1. Copies of documents of all assets have to be filed through affidavit in Court, or a plausible explanation be filed explaining why same cannot be filed.
2. JOSEPH KAMBUTU MWATHA has to be included as a survivor, and to be personally served with documents in these succession proceedings for him to file a response within 45 days from service.
3. Thereafter, a mention date be taken in the registry for directions.

Dated and delivered at Nairobi this 25th day of January 2010.

George Dulu
Judge.