



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYERI

Miscellaneous Application 56 of 1996

CHEGE NJUGUNA.....APPLICANT

Versus

MUCHIRI CHEGE KABUGI & 7 OTHERS.....RESPONDENTS

RULING

Muchiri Chege Kabugi, the petitioner herein, was issued with letters of administration intestate in respect of the estate of Njuguna Chege, deceased on 19th September 1995 by the Murang'a Senior Resident Magistrate's court. The aforesaid grant was confirmed on 15th November 1995. In the certificate of confirmation the following were named as the beneficiaries of the estate:

Muchiri Chege, Mwangi Njoroge Mwangi, Chege Mwangi, Wangari Njuguna and Njoki Njuguna. The aforesaid beneficiaries shared the parcel of land known as Loc.2/Mairi/73. The value of the aforesaid land was estimated at Kshs. 90,000/=. Chege Njuguna, the applicant/objector herein, took out a summons for revocation of grant dated 2nd May 1996 in which he applied for the grant to be revoked. Directions were given to dispose of the application by oral evidence.

When the summons came up for hearing, the petitioner did not turn up despite having been served with notice. Consequently the applicant/objector proceeded exparte. Chege Njuguna (P.W.1) told this court that Muchiri Chege obtained the grant by concealing material facts and by making a false statement. He said that the petitioner mentioned the names of five people as surviving the deceased yet he was aware that 17 people survived the deceased. P.W.1 further stated that the parcel of land known as Loc. 2/Mairi/73 measuring 19 acres was worth more than Kshs. 90,000/=. It is the evidence of P.W.1 that

an acre of land within the neighbourhood was over 90,000/=. On the basis of the above evidence this court was urged to revoke the grant.

I have considered the evidence tendered. It is obvious from the evidence of P.W.1 that the petitioner did not disclose the true value of the parcel of land known as Loc.2/Mairi/73. It has also emerged from the evidence of P.W.1 that the petitioner did not mention all the beneficiaries of the estate of Njuguna Chege, deceased. From the evidence presented to this court I am convinced that the petitioner is guilty of material non-disclosure of relevant facts. I also find that the petitioner obtained the grant by the making of a false statement. He understated the value of the property.

In the end I allow the summons for revocation or annulment of grant dated 2nd May 1996 as prayed.

Dated and delivered this 22nd day of January 2010.

J.K. SERGON

JUDGE

In the absence of Mindo.

J.K. SERGON

JUDGE