



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

**Succession Cause 385 of 1999**

**IN THE MATTER OF THE ESTATE OF NJOROGE GACHOHO (DECEASED)**

**R U L I N G**

Before me is a Summons dated 17<sup>th</sup> September, 2009 filed by m/s Nganga Ngigi & Company advocates for the applicants named as **JOHN MWAURA NJOROGE and GEORGE CHEGE NJOROGE**. The application was said to be for setting aside orders of revocation. It was filed under Rule 44 (3), (4) and (5) and Rule 73 of the Probate and Administration Rules. The orders sought are as follows-

*(a) That the ex parte orders made on 21<sup>st</sup> October, 20-04 revoking the grant issued to WAMUKORE NJOROGE be set aside.*

*(b) That costs be provided for.*

The grounds of the application are firstly that the applicants were registered as proprietors by way of transmission of land parcel Number **KIGANJO/KIGANJO/205**; secondly, that the applicants as interested parties were never served with the application for revocation of grant; and thirdly that the applicants were condemned unheard against the principles of natural justice.

Also filed with the application was an affidavit sworn on 17<sup>th</sup> September, 2009 by one of the applicants **JOHN MWAURA NJOROGE**. It was deposed in the said affidavit, inter alia, that though the applicants were not parties in the application for revocation of grant, the ex parte orders made on 21<sup>st</sup> October, 2004 condemned them unheard.

I have considered the application and documents filed. Having done so, I cannot grant the prayers sought.

The first reason why I will not grant the prayers sought is that I don't see how the applicants can claim to have been condemned unheard. If indeed the land was registered in their name through transmission, not succession, then in my view they do not stand to lose anything by the said revocation. The second reason why the application will fail is that the applicants cannot force the former administrator to be an administrator **WAMUKORE NJOROGE** wanted to challenge the ruling of the court, she should have done so in person. She has not done so. The effect of granting the orders sought would be to appoint an administrator who has not applied to be an administrator, after the grant was revoked. That cannot be done by this court. There is no justifiable reason to do so. It will amount to forcing her to be an administrator without her knowledge and without the consent of interested parties beneficiaries. I will therefore not allow this application.

For the above reasons, the application is dismissed. I make no order as to costs.

Dated and delivered at Nairobi this 17<sup>th</sup> day of March, 2010.

**George Dulu**  
**Judge.**