

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI

Succession Cause 51 of 2001

IN THE MATTER OF THE ESTATE OF HOSEA NGARAGARI..... DCD

AND

JOSEPH KARUGI NGARAGARI.....PETITIONER

VERSUS

1. MACHARIA NGARAGARI)..... 1ST OBJECTOR

2. NDERITU NGARAGARI).....2ND OBJECTOR

3. KAROKI NGARAGARI).....3RD OBJECTOR

JUDGMENT

In this estate there were two petitions in respect of Hosea Ngaragari alias Ngaragari Karugi deceased. At Karatina Magistrate's court Succession No. 8 of 2001 Simon Macharia Ngaragari petitioned for grant of letters of administration in respect of that estate. A grant was issued to him on 22nd June 2001. In the High Court at Nyeri Succession Cause No. 51 of 2001 Joseph Karugi Ngaragari petitioned for grant of Letters of Administration intestate in respect of the same estate. The High Court ordered for the RM'S Succession Cause No. 8 of 2001 at Karatina to be transferred to Nyeri High Court and be consolidated with this cause. Joseph Karugi Ngaragari filed an affidavit of protest to an application for confirmation of grant filed by Simon Macharia Ngaragari. At the hearing of that protest Simon filed a written will of the deceased and prayed that distribution be in accordance with that written will. The will was written in Kikuyu language and its English translation was attached. In view of the disclosure of that will I am of the view that the grant issued to Simon Macharia cannot continue to subsist. There is need for another petition to be filed with the will attached. In view of that the court cannot determine the protest raised herein to the grant of letters of administration. The judgment of this court is:-

- 1. *That the grant issued to Simon Macharia Ngaragari on 22nd June 2001 is hereby revoked.***
- 2. *Leave is hereby granted for fresh petition to be filed for Letters of Administration to be issued with will attached.***
- 3. *There shall be no orders as to costs.***

Dated and delivered at Nyeri this 8th day of October 2008.

MARY KASANGO

JUDGE