



REPUBLIC OF KENYA

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

Succession Cause 204 of 1997

IN THE MATTER OF THE ESTATE OF NGUGI KAMAU – DECEASED

RULING

The summons dated 16th February, 2001, to revoke the certificate of confirmation granted in the estate of the deceased vide Succession Cause No.204/1997, was heard ex-parte as either the Administratrix or the counsel failed to appear.

The Applicant Josephat Ng'ang'a Kariuki testified. As per his evidence the deceased was his brother and he has other four brothers, that the estate property i.e. Parcel No. Kiambu/Kihara/1382 was registered in the name of the deceased as he was eldest son of their family that the fact that he held the said parcel in trust for other brothers was confirmed vide a decree issued in land case No.74 of 1982 at S.R.M's Court at Kiambu.

He produced the certified copy of the decree, certificate of Official Search dated 28th June, 2001 and the title deed given on 12th March, 1997 showing the following absolute proprietors:

- 1. Ngugi Kamau**
- 2. Harrison Muita Kariuki**
- 3. Josphat Ng'ang'a Kariuki**
- 4. Karanja Kariuki.**

He also produced Original Land Certificate in the name of Ngugi Kamau given on 18th March, 1974.

The first person shown in the title deed i.e. Ngugi Kamau is the deceased in this cause.

The Administrator/Respondent in the Succession Cause before the subordinate court has placed the whole property as the estate property and not the $\frac{1}{4}$ share thereof.

In her replying affidavit sworn on 14th June, 2001 the Administratrix Jane Wangui Ngugi has stated in paragraph 10 thereof that she was not aware of any suit proceedings which took place at Kiambu Court. She produced Certificate of Official Search dated 20th September, 1994 showing the name of the deceased as the sole proprietor in support of her claim.

I do not think that what she averred was wrong as the deceased was registered at one time as the proprietor of the property, but the documents of title produced by the Objector are later in time than the

certificate of search produced by the Administratrix.

I therefore accept the contentions raised by the Objector and order that the certificate of confirmation of grant issued be revoked and fresh one be issued showing the estate property as $\frac{1}{4}$ share of parcel of land No. Kiamba/Kihara/382

I shall not give any order on costs.

Dated and signed at Nairobi this 28th day of February, 2007.

K.H. RAWAL

JUDGE

28.2.07