

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU

Succession Cause 510 of 2004

IN THE MATTER OF THE ESTATE OF KIAMBATI MATAGU(DECEASED)

JACOB MURURU M'KIAMBATI PETITIONER

VERSUS

ISAIAH KINYUA LUULU INTERESTED PARTY

RULING

This application was unopposed as the respondent failed to file a reply to it or attend on the hearing date having been duly served with the same. In it the applicant is seeking two main orders.

First he is seeking an order of inhibition to restrain dealings in land parcel Nos.Njia/Libwa/101 and Njia/Buri-E-Ruri/3186 and secondly he is seeking that the grant of representation issued to the respondent be revoked or annulled.

The applicant states in support of this application that the respondent applied and obtained the grant secretly and further that in doing so he did not disclose to the court that there was a dependant, the father of the applicant, who was excluded. The applicant's father, Japhet Luulu was a brother to the respondent. That the grant issued to the respondent was in respect of the estate of their father, Kiambati Matagu. The applicant's father died on 8th August, 1988 and on 22nd November, 2006 the applicant obtained limited grant of letters of administration *ad litem*.

These averments have not been challenged. The applicant having obtained limited grant is entitled to bring this application. According to a certificate of official search filed in this cause and dated 28th October, 2004, Njia/Liburu/101 was at that time registered in the name of Kiambati Matagu, the father of the respondent. This property is now to be distributed between five of the deceased's dependants, following confirmation of the grant issued on 19th April, 2005. No provision was made for the estate of Japhet Luulu, who has been reflected in all the documents filed in this cause as a deceased son of Kiambati Matagu, the deceased. From the letter written by the Chief, Mukululu Location on 27th April, 2004 and affidavit in support of petition, Japhet Luulu is shown as a son but deceased. However in their affidavit in support of summons for confirmation, the respondent omitted to provide for the estate of Japhet Luulu. This amounts to concealment from the court of a material fact.

Consequently I revoke the certificate of confirmation of Grant issued on 14th February, 2007.

It is further ordered that there shall be inhibition in dealing in Njia/Liburu/101 and Njia-E-Ruri/3186. Costs to the applicant.

DATED AND DELIVERED AT MERU THIS 18th DAY OF May 2007

W. OUKO

JUDGE