

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI

Succession Cause 324 of 2004

IN THE MATTER OF THE ESTATE OF KARUGU NGURU - DCD

AND

PAUL NDIRANGU KARUGU.....PETITIONER

JUDGEMENT

The Petitioner Paul Ndirangu Karugu in petitioning for letters of administration indicated that the deceased was survived by himself and his brother Murage Karugu Nguru. An objection was filed to the issuing of letters of administration by John Mwangi Ndirangu. The Objector is the son of the petitioner and therefore is the grandson of the deceased. In his objection filed in this court on 3rd September 2004 he stated that the petitioner his father was misled by his co-beneficiary to deprive him of his entitlement to this estate. It ought to be noted that the estate has only one property namely;- parcel NO. Muhito/Ruthanji/343. This property measure approximately 0.9 acres. When the matter came up for hearing of the objection although the petitioner and his co-beneficiary had been served they did not attend court. The objector in his evidence confirmed that the deceased is his grandfather he proceeded to say that the reason he raised an objection was because the petitioner his father was intending on obtaining a title of the property to sell the same. He stated that he has children who would want to inherit from him this land. He concluded by saying that if it were not for the fact that his father wanted to sell the land he would not have raised an objection.

I have considered the evidence tendered by the objector. It does seem that the basis of objecting is that the objector fears that his father will sell the suit property once a title is issued to him. The objector however failed to prove to this court on a balance of probability that there was such a probability of sale. He failed to exhibit any consents to sell by the land board. Even if indeed the petitioner was intent on selling the land after inheriting it the objector failed to show how such contravention was a breach of any law. The petitioner and his co-beneficiary are the sons of the deceased and by virtue of that relationship they have priority to inherit from the deceased over the objector. I find that the objector has failed to prove his objection on a balance of probability and according his objection dated 17th august 2004 and filed in this court on 8th sep 2004 is hereby dismissed with no orders as to costs.

Dated and delivered at Nyeri this 11th December 2007.

MARY KASANGO

JUDGE