



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

**Succession Cause 1172 of 1998**

**IN THE MATTER OF THE ESTATE OF DANIEL MUCHOGO KAGORI – (DECEASED)**

**JUDGMENT**

The objection proceedings herein was heard ex-parte after I was satisfied that the Petitioner/Respondent was duly served and from the past records of non-appearance and non-availability of the Petitioner before the court.

The Objector and his witness testified before the court to support the protest filed on 11<sup>th</sup> January, 2002.

In short, the Objector who is a brother to the deceased, testified that the Petitioner herein was not married to the deceased. He produced a letter dated 14<sup>th</sup> February, 2001 from the Area Chief, Kiamathaga Location addressed to District Officer, Kieni East Division stating inter alia that he had heard the dispute between the Petitioner and father of the deceased when they came on 3<sup>rd</sup> March, 1998 after the Petitioner claimed that she was the wife of the deceased. He also stated that six elders were also called by him on 28<sup>th</sup> April, 2000 who stated that the Petitioner was one of the many girl friends of the deceased and denied that she was a wife of the deceased. He then opined that there was no marriage ceremony performed and thus they were not legally or traditionally married.

He also produced a letter dated 27<sup>th</sup> March, 2001 from D.C. Nyeri, addressed to the Public Trustee, confirming that the deceased herein survived only by his mother Susan Muthoni Kagori.

The said mother also testified and reiterated that the deceased was not married and that she did not know Damarie Wanjiku and that she has never met her even in the court during previous proceedings.

With the evidence before me, which is not controverted, I do accept the contention of the protestors that the Petitioner Damarie Wanjiku Wachira is not a wife of the deceased.

The Petitioner has filed her response to the protest but in absence of her testimony to prove the validity of her averments, unfortunately I cannot consider the same.

In the premises I do not have any option but to revoke the grant of representation made to Damarie Wanjiku Wachira and George Gakuo Wachira on 4<sup>th</sup> August, 1995.

The protestors are thus at liberty to file further proceedings as per law.

Dated and signed at Nairobi this 6<sup>th</sup> day of July, 2006.

**K.H. RAWAL**

**JUDGE**

**6.7.2006**