

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

Succession Cause 408 of 1993

IN THE MATTER OF THE ESTATE OF STANSLAUS KARIUKI – (DECEASED)

JUDGMENT

Before me is an application by way of summons to revoke the grant of Administration issued to the Respondents in Kiambu Succession Cause No.158 of 1991.

There is no response to the application by the respondents namely Michael Wambugu Kanugu and Catherine Waithira Gichuru. Even at the date of hearing of this application despite their counsel having been duly served, no appearance was made on behalf of the respondents. I therefore heard the application ex-parte.

The brief facts are that the applicant is one of the sons of the deceased herein who died on 2nd August 1976. The widow Mariana Njeri Kariuki had filed a petition for grant of Administration before the Resident Magistrate's Court Thika, being Succession Cause No.85 of 1987.

While this petition was pending, the respondent as a brother and sister-in-law to the deceased filed a Succession Cause No.158 of 1991 claiming that the aforesaid widow and her sons have refused to sign the caveat which is unreasonable and baseless. As per the petition filed by the widow in Thika Court the deceased had three sons one of them is the applicant herein, who is obviously a beneficiary to the estate.

When the widow and sons were present, the respondents do not have right under the Act to file petition for the grant of representation.

Without anything further from the respondents I cannot refuse the application and thus do proceed to revoke the grant and certificate of confirmation made on 17th July, 1992 and 23rd October, 1992 in Kiambu Succession Cause No.158 of 1991. The said grant totally disinherits the sons of the deceased.

I further direct that the proceedings at Thika Succession Cause No.85 of 1987 to proceed after substituting the widow with at least two sons of the deceased as I am informed that she is not alive.

I do not make any order on costs.

Dated and Signed at Nairobi this 5th day of July, 2006.

K.H. RAWAL

JUDGE

5.7.06