

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAKURU
Succession Cause 487 of 2004

IN THE MATTER OF THE ESTATE OF PETER MWAURA GITAHU ALIAS MWAURA
PETER GITAHU (DECEASED)

JULIA WANJA MWAURA.....APPLICANT

VERSUS

PETER KABATA MWAURA.....1ST PETITIONER

APOLLO BORO MWAURA.....2ND PETITIONER

RULING

The applicant filed summons for revocation of a grant praying that the grant of letters of administration issued to the petitioners on 24th November, 2004 be revoked on the ground that the grant was obtained fraudulently by the making of a false statement by the petitioners in that they did not disclose to this court that the applicant was a beneficiary who was not named in the petition.

In her affidavit in support of the application, she deposed that she was a daughter of the deceased and that she got married in the year 1981 but separated with her husband in 1987 and had 3 children who were staying with her.

She further deposed that during her father's life time, he allowed her to build on his property where she was currently staying with her children. She stated that her late father told her brothers that she should benefit from his property since she had separated with her husband but her brothers did not include her in the list of beneficiaries when they were applying for letters of administration.

I have perused the file and confirmed that the name of the applicant does not appear in the list of the beneficiaries of the deceased's estate. The petitioners were served with this application but did not attend court or oppose the same in any way.

The applicant is not opposed to the appointment of the petitioners as administrators of the deceased's estate. Her only query with the grant is that she was not included as a beneficiary. In the circumstances I will not order revocation of the grant but hereby order that the applicant be included as one of the beneficiaries of the deceased's estate before or during the time of filing the application for confirmation of the grant. In my view, revocation of the grant will not be in the interests of the parties in this matter including the other beneficiaries because it will mean starting the process of applying for another grant afresh.

The costs of this application shall be met by the estate.

DATED, SIGNED & DELIVERED at Nakuru this 15th day of July, 2005.

D. MUSINGA

JUDGE

15/7/2005