

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI
SUCCESSION CAUSE NO. 1567 OF 2003

IN THE MATTER OF THE ESTATE OF JOSEPH KIRAGU MUNYI

(DECEASED)

IN THE MATTER OF THE ESTATE OF JOSEPH KIRAGU MUNYI (DECEASED)

RULING

The petitioner herein Phylis Wangare Mburu petitioned for the grant of Letters of Administration in respect of the estate of the late Joseph Kiragu Munyi. The petition was duly gazetted on 25th July 2003 but Henry Githinji Munyi and Christopher Mukungu filed an objection to the making of the grant and cross-petitioned for the grant. Incidentally the objectors had petitioned for the Letters of Administration in respect of the deceased estate in Succession Cause No. 44 of 2001 at Kerogoya which was revoked in H.C. Succession Cause No. 2098 of 2001.

The petitioner challenged the grant and by a ruling delivered by Rawal J. on 10th December 2002, the grant issued to the objectors was revoked on the grounds that the grant was obtained fraudulently and by way of concealment of material facts. The court directed that the petitioner herein may file a petition for grant of Letters of Administration. Counsel for the petitioner submitted that the crosspetition should be dismissed as the objectors have not appealed against the ruling of Hon. Rawal J. The objection is predicated on the grounds that they intend to appeal against the ruling. That ruling was delivered on 10th December 2002 almost 18 months ago and since there is no appeal or order of stay of execution, there is nothing to stop this court from issuing the grant to the petitioner. After all the court has made an inquiry as to the persons who are entitled to the grant and the order of priority and made a finding after hearing evidence that the petitioner is the widow. On what other basis would this court continue to entertain the objection.

Accordingly I hereby direct that the grant of Letters of Administration be made to the petitioner. I hereby dismiss the crosspetition and answer with costs to the petitioner.

Ruling read and signed on 1st July 2004.

MARTHA KOOME

JUDGE