



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
SUCCESSION CAUSE NO. 38 OF 1999**

**IN THE MATTER OF: THE ESTATE OF KARANJA HOSSAN BORN
KARANJA also known as ELIZABETH WANGUI**

J U D G M E N T

Esther Wamboi Karanja and Wanjiru Karanja Githu petitioned for Letters of Administration of the Estate of ELIZABETH WANGUI (DECEASED). The relationship of the deceased and the Petitioners was that of mother and sister. Grant was issued by this court on 15/3/2001. On 8/3/2002 Jacinta Wangechi and Alice Wanjiru applied for the revocation of the Grant issued on 15.3.2001 saying that the Grant was obtained fraudulently and for other grounds set out on the body of the application. Affidavit in support is sworn by Jacinta Wangechi. The Grant is not confirmed.

The parties agreed to give oral evidence to support their respective side of the story. The court has examined the affidavits in support of the application. The dispute appears to have arisen because the two Petitioners who were issued with the Grant are not conversant with their duties. The mother Wanjiru Karanja Githu was left to sign all documents because Esther Wambui Karanja her daughter said she left the matter to her mother to do everything. I do not find that these two people acted fraudulently but they were not keeping accounts and do not appear to have safeguarded the estate for the benefit of all beneficiaries. It is not clear who collects rents and where the money is deposited. The estate comprises of:-

Plot in Kisauni

Plot in Kongowea

Nissan Matatu KAH 855 S.

Plot at Mkaburini

Plot at Lungalunga

Account with Barclays Bank from which the money appears to have been drawn from the bank and distributed in a manner that does not please all the beneficiaries.

The method of distribution of estate where the deceased left no will is set out in the Succession Act, Part V.

I find that all the complainants are entitled to inherit the estate of their deceased sister according to law.

Regarding the issue of revocation of Grant, Section 76 grants court power to revoke a grant on its motion.

I am satisfied that the present holders of the Grant are not capable of administering the estate for the benefit of all beneficiaries. Since the Grant was issued they have commenced distribution of estate without seeking confirmation of Grant. They are not taking care of the assets of the estate.

In the circumstances, I do declare the Grant issued on 15/3/2001 null and void and I hereby revoke the same.

The costs of this application shall be out of the estate.

Further I direct that the estate be handed over to Public Trustee for Administration at the instance of any one beneficiary.

Dated this 4th day of June, 2004.

JOYCE KHAMINWA

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