



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
SUCCESSION CAUSE NO. 1076 OF 2001
IN THE MATTER OF THE ESTATE OF NDIRANGU GITAU

(DECEASED)

R U L I N G

From what has been brought to my attention during the hearing of this summons dated 26th September 2000 for revocation of grant issued by the Thika Senior Resident Magistrate's court on 29th April 1998, I find that the Applicant, through her son Hiram Gitau Njoroge, raised Objection to the distribution of the estate of the deceased Ndirangu Gitau before the Senior Resident Magistrate E.O. Awino at Thika claiming the very portion of land the Applicant is now claiming before me.

Hiram Gitau Njoroge's Objection, which did not seek to revoke the relevant Grant of Letters of Administration, was fully heard before the learned Senior Resident Magistrate who after careful consideration of the objection, in the light of the evidence which had been adduced, dismissed that Objection and went ahead to distribute the estate in the manner that distribution remains to-day and therefore confirmed the Grant of Letters of Administration.

That having happened, the way open to the young Hiram (Hilam) Gitau Njoroge was to appeal against that judgment and indeed he appealed in HCCA NO. 448 OF 1999.

Evidence relating to the fate of that appeal is not before me. But whatever the fate of that appeal, that was the proper way of proceeding further in the matter.

It is therefore not open for the mother of Hiram Gitau Njoroge to come before this court with a summons to revoke the Grant of Letters of Administration in the way she has come claiming she is a beneficiary who was not included in the distribution of the estate of the deceased thereby raising the same claim her son raised in his objection as in my view Hannah Waitherero Njoroge's claim is res judicata.

That being the position therefore, this summons dated 26th September 2000 be and is hereby dismissed. There will be no orders as to costs of the summons as the Respondent did not bother to come to this court.

Dated this 16th day of September 2002.

J.M. KHAMONI

JUDGE

Further Order:

Upon application by Mr. Kitheka, certified copy of the proceedings and ruling dated to-day may be supplied in the normal manner.

J.M. KHAMONI

JUDGE