



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
SUCCESSION CAUSE NO.926 OF 1997
IN THE MATTER OF EUNICE WANJERI KIBIA ... DECEASED

R U L I N G

Grant of letters of Administration was issued Samuel Gathaiga, which was later rovocated on 18/11/1999. Before revocation land parcel NO.GITHUNGURIA/GATHUNGURI/1029 had been subdivided as follows:-

- (a) L.R. GITHUNGURI/2057
- (b) L.R. GITHUNGURI/2058
- (c) L.R. GITHUNGURI/2059
- (d) L.R. GITHUNGURI/2060
- (e) L.R. GITHUNGURI/2061
- (f) L.R. GITHUNGURI/2062

The parcels L.R. GITHUNGURI/2057,2058,2059 and 2062 had been transferred to 3rd party before the grant was rovocated.

An application cause before me on 27th March, 2000 which sought orders to the petitioner having been revoked, the deceased's property should revert to her name which application I grant, on 31st March, 2000.

This application seeks orders to vacate and set aside my said orders of 31st March, 2000 as far as it related to the said parcels, which had been transferred to other persons. Namely.

- (a) Githunguri/Githunguri/2057
- (b) Githunguri/Githunguri/2058
- (c) Githunguri/Githunguri/2059
- (d) Githunguri/Githunguri/2062

This application is brought under section 93 of the Succession Act Cap 160.

The application is opposed on the ground that the grant was revoked because the Court, which issued it, has no jurisdiction to do so, and therefore the same was a nullity. Section 93 of the Law of Succession Act Cap 160 protects the interest of a purchase of immovable property of any interest in immovable property in the event the grant issued is subsequently revoked it says:

“A transfer of any interest in immovable property or movable property made to a purchaser either before or after the commencement of this Act by a person to whom representation has been granted shall be valid, notwithstanding any subsequent revocation or variation of the grant either before or after the commencement of this Act”

In the circumstances the properties mentioned above: GITHUNGURI/GITHUNGURI/2057, 2058,2059 and 2062 which had been transferred to lawful purchasers could not revert back to the estate of the deceased.

This application therefore succeeds and accordingly I varied as follows:

My order dated 31st March, 2000 is vacated as it relates to parcels of land known as:-

(a) L.R. GITHUNGURI/GITHUNGURI/2057

(b) L.R.GITHUNGURI/GITHUNGURI/2058

(c) L.R GITHUNGURI/GITHUNGURI/2059

(d) L.R.GITHUNGURI/GITHUNGURI/2062

Order accordingly, each party bear his own costs.

Dated and delivered at Nairobi this 23rd day of July, 2001

J.L.A. OSIEMO

JUDGE