

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

MISC. SUCCESSION CAUSE NO. 23 OF 2020

IN THE MATTER OF AN APPLICATION FOR TRANSFER

IN THE MATTER OF MERU CHIEF MAGISTRATE'S SUCCESSION CAUSE NO.96 OF 2020 (ESTATE OF ALEX MUTWIRI NTARA - DECEASED)

EMILY KARAMBU.....PETITIONER/RESPONDENT

VERSUS

FELICITY MUKIRI NTHIGA.....OBJECTOR/APPLICANT

AND

LAWRENCE MUNEE NTARAINTERESTED PARTY

R U L I N G

1. This matter relates to the summons dated 10/08/2020 brought under **Section 47 and Rue 73 of the Probate and Administration Rules CAP 160 Laws of Kenya**. The applicant seeks the transfer of Meru Chief Magistrate's Succession Cause No. 96 of 2020 to this court for appropriate orders as to its determination.
2. The grounds upon which the application is grounded upon are set out in the application and the supporting affidavit of **Felicity Mukiri Nthiga** sworn on 10/09/2020. It is contended that the succession cause filed in Meru Chief Magistrate's Court is incompetent and fraudulent *ab initio*. That the respondent filed the said cause to distribute the estate of the applicant's husband without her knowledge.
3. She relied on the grant issued by this court on 12/06/2018 in **Meru HC Succession Cause NO. 432 of 2014** and amended to include the applicant's name on 21/02/2019. The applicant contended that the respondent and some of her siblings are trying to disinherit her of her husband's properties. Since the cause in the High Court is still active, Cause No. 96 of 2020 ("the said Cause") is incompetent and needs to be transferred to this court for scrutiny and appropriate orders.
4. This was opposed by the respondent vide the replying affidavit of **Emily Karambu Ntara** sworn on 11/08/2020. She deponed that the said Cause was not fraudulent neither was it incompetent. That her brother, **Alex Mutwiri Ntara** who died on 10/12/2018 was not married and had no child.
5. She further contended that she filed the said Cause to succeed his estate. That the applicant had secretly filed an application at Mavoko Law Courts for a limited grant over the estate of her brother and used the same to come into their mother's proceedings alleging to be the wife. To her, the applicant was a stranger and not a beneficiary.
6. The Interested Party also opposed the application vide his replying affidavit sworn on 11/09/2020. He supported the averments of the respondent.
7. In view of what this Court held in Meru H.C Succession Cause No. 432 of 2014, I see no need to make any pronouncement herein. In the said Cause, this Court has directed that the applicant herein does file an Objection proceeding in the **Meru CM Succession Cause No. 96 of 2019** and establish her interest therein.
8. Accordingly, the application is hereby marked as overtaken by event with no order as to costs.

DATED and DELIVERED at Meru this 1st day of October, 2020.

A. MABEYA

JUDGE