



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NYERI**

**MISC P&A APPLICATION NO. 1 OF 2018**

**BEATRICE WANJUGU MWANIKI AND 6 OTHERS....APPLICANTS**

**-VERSUS-**

**JOSEPHINE WANJIKU MWANIKI.....RESPONDENT**

**RULING**

The application before is a Summons general dated 16<sup>th</sup> January 2018 brought under rule 73 of the P&A rules. It seeks an orders that Nanyuki CM Succession Cause no 25 of 2017 be transferred to Nyeri CM's court for hearing and disposal. The grounds are that the parties are residents of Nyeri County, the estate of the deceased is situated in Nyeri County where the deceased also died. That the transfer will ease the cost of travelling.

The application is supported by the affidavit of Beatrice Wanjugu Mwaniki sworn on 16<sup>th</sup> January 2018. It is opposed vide the replying affidavit of Josephine Wanjiku Mwaniki on 5<sup>th</sup> March 2018, and further affidavit sworn on 5<sup>th</sup> October 2018.

A perusal of the affidavits reveals that the succession cause sought to be transferred relates to the estate of FRANCIS MWANIKI NJOGU in respect of whom a burial dispute was filed, heard and determined in Nanyuki PMCC No 4 of 2011, while his body was preserved at the Nanyuki District Hospital.

Without going into the merits of the application before me, it already appears to me that it is not correct that deceased died in Nyeri County.

In any event the correct position would be to have this application made before the Judge in Nanyuki as it is a matter within his jurisdiction.

The application is struck out with no orders as to costs.

**Dated, delivered and signed this 18<sup>th</sup> day of January 2019.**

**Mumbua T. Matheka**

**Judge**

In the presence of:

Bwononga for Respondent

Ms.Muriuki holding brief for Lucy Mwai for citees.

Court Assistant-Emmanuel

**Mumbua T. Matheka**

**Judge**