



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT CHUKA
SUCCESSION CAUSE NO. 52 OF 2015
(FORMERLY SPM CHUKA SUCCESSION CAUSE NO. 139 OF 2013)
IN THE MATTER OF THE ESTATE OF THE LATE MUCHIRI MATIRI
(DECEASED)
JADRINE KAGENDO.....OBJECTOR/APPLICANT
VERSUS
VIOLET MUKWAMUGO.....PETITIONER/RESPONDENT
R U L I N G

1. This cause relates to the estate of Muchiri Matiri (deceased) who died on 27th May, 2007 domiciled at Chogoria Sub-Location. The petition filed indicates that the deceased died intestate leaving behind the following dependants, namely:

- a) Violet Mukwamugo
- b) Jadrine Kagendo
- c) Jasper Gitonga
- d) Lawrence Micheni
- e) Caroline Gakii
- f) Agnes Makena &
- g) Tonny Murimi

2. Violet Mukwamugo, the widow to the deceased herein was appointed the administratrix of the estate of her late husband on 27th January, 2014 and on 7th October, 2015 the grant was confirmed and the estate distributed as follows:

L.R. Mwimbi/Chogoria/139

- (i) Violet Mukwamugo - 0.50 acres
- (ii) Jadrine Kagendo - 0.50 acres
- (iii) Jasper Gitonga - 1.50 acres
- (iv) Lawrence Micheni - 1.50 acres
- (v) Caroline Gakii - 0.50 acres

(vi) Agnes Makena - 0.50 acres

(vii) Tonny Murimi - 0.50 acres (to be held in his trust by Lawrence Micheni.)

3. Jadrine Kagendo, the applicant herein has now moved this court through Summons for Revocation of Grant dated 4th July, 2018 for revocation of the said grant citing the following grounds namely:-

a) That the grant was obtained fraudulently and clandestinely by the petitioner who purportedly added two strangers as beneficiaries of the estate.

b) The petitioner did not obtain consent

c) That the proceedings were defective in substance.

d) That the grant was obtained by means of untrue allegations of fact that has led to the applicant being disinherited .

4. The applicant has supported the above grounds with an affidavit sworn on 4th July, 2018 where apart from reiterating the above grounds has added that the deceased had already subdivided his estate among the beneficiaries before he died. She has also named the purported strangers as Njeru Kanampiu and Caroline Gakii.

5. At the hearing of this application through viva voce evidence, it transpired that infact one Njeru Kanampiu was not named as a beneficiary and did not benefit from any share as I have indicated above. It also became apparent, that Caroline Gakii was infact the sibling or the younger sister to the applicant.

6. The Respondent and the mother to the applicant opposed this application through a Replying Affidavit sworn on 3rd October, 2018. The Respondent has denied the allegations of fraud and misrepresentations attributed to her and has deposed that she proceeded openly and was accountable to all her children who equally benefited from the estate.

7. At the hearing, it became apparent that the applicant's main ground in this application is the unproven claims that her younger siblings save from Jasper Gitonga were not biological children of the deceased. When pressed to disclose the source of the claims or the their veracity, she asserted that her late grandmother told her so. She claimed that her mother the petitioner herein left her with Gitonga with their grandmother and that when she came back home, she came with her younger siblings. This court finds the claims not only outrageous but without any basis because for a child to claim that the other children or siblings are not biological children of the deceased with no iota of prove not only smacks of greediness but malice as well.

8. The applicant cited one Njeru Kanampiu stating that her mother had given him a share but at the hearing she denied knowledge of such person yet she has stated on oath in her affidavit that the said Njeru Kanampiu had been made a beneficiary. It is also in bad faith for the applicant to term her own biological sister Caroline Gakii as a '**stranger**' when prompted in court during trial to state whether she was sure of herself about how she was conceived and whether she knew if the deceased was her biological father, she could not give a clear answer.

9. I have also checked at the court record and noted that on 7th October, 2015 when the grant was confirmed by this court, the applicant and all the other siblings save for Jasper Gitonga were present. For her to turn around and state that her mother (administratrix) proceeded without consent and/or fraudulently/clandestinely is misleading and without basis.

In the premises this court finds that the Summons for Revocation of Grant dated 4th July, 2018 totally lacks in merit and the same is dismissed.

Dated, signed and delivered at Chuka this 19th day of February, 2019.

R.K. LIMO

JUDGE

19/2/2019

Ruling signed, dated and delivered in the open court in presence of Petitioner and Mugo Advocate appearing for her and in the absence of Applicant.

R.K. LIMO

JUDGE

19/2/2019