



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

SUCCESSION CAUSE NO. 82 OF 2007

IN THE MATTER OF THE ESTATE OF M'MUTUNGI KITHAMBA (DECEASED)

MARY KAIRUTHI NDUBI.....1ST APPLICANT

LYDIA KANANU.....2ND APPLICANT

LUCY MWARANIA.....3RD APPLICANT

CATHERINE KENDI.....4TH APPLICANT

VERSUS

SASINTA KATHURE M'MUTUNGI.....PETITIONER/RESPONDENT

RULING

1. Application dated 22nd November 2018 was filed by Zachary Kiamesi Mutungi seeking that confirmed Letters of Administration dated 11th October 2018 be revoked or annulled:
2. That the court stays the administration process in regard to confirmed letters of Administration dated 11th October 2018 pending hearing and determination of the application.
3. It was sought that the Respondents be ordered to produce in court the original grant dated 11th October 2018.
4. It was contended that certificate of grant dated 11th October 2018 was not in accordance with judgment delivered by the Court.
5. It was argued that the court in its judgment did not issue any certificate of confirmed grant neither did the court indicate in the judgment that assets were to be distributed as indicated in the grant and that rectified grant issued on 6th December 2010 was not revoked.
6. That it was not in the judgement that subdivisions of LR Nyaki/Kithoka/753, Ntima/igoki/1874 and Nyaki/Mulathankari/529 revert to original parcels.
7. It was urged that the certificate of confirmation be drawn as set out in the judgment. Catherine Kendi Mutungi responded to application by a Replying affidavit sworn on 19th January 2019.
8. I have considered the submissions in support and in opposition to the application and find that application amounts to an appeal against the orders made by this court 11th October 2018 which the court cannot sit over.
9. The court having issued orders contrary to those in certificate dated 6th December 2010, it means that automatically a fresh certificate of confirmation would issue.
10. In the certificate of confirmation dated 6th December 2010, all the assets forming part of the estate were to devolve to the widow of the deceased and both the applicant and Respondent objected to the same as a result the determination made on 11.10.2018 was reached at.
11. There was an application for revocation of grant that had been made to Petitioners/Respondents filed by Catherine Kendi, however the

parties having engaged in negotiations and having reached an agreement this court didn't find any reason to revoke the grant. Instead the estate was distributed to every beneficiary as per the agreement. I do therefore find that the application cannot stand and same is dismissed with no orders as to costs.

HON. A.ONG'INJO

JUDGE

RULING DELIVERED, DATED AND SIGNED IN COURT ON 7TH FEBRUARY 2019.

In the presence of:

C/A: Petitioner/Respondent:

Applicants: Ms Ntarangwi Advocate for applicant/Respondents.

4th Applicant/Respondent – present in person

Petitioner present in person

2nd Applicant/Respondent – present in person

HON. A.ONG'INJO

JUDGE