



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**SUCCESSION NO. 258 OF 2006**

**IN THE MATTER OF THE ESTATE OF MUTUNGI MUTHURI ALIAS**

**STEPHEN M'MUTUNGI M'MUTHURI DECEASED**

**JOHNSON KABURU MATIRI.....RESPONDENT**

**VERSUS**

**JOSEPH NKONGE MATIRI.....PETITIONER/APPLICANT**

**RULING**

Two application dated 31<sup>st</sup> March 2016 for revocation of grant and the one dated 15<sup>th</sup> September 2017 are due for determination.

On 20.9.2017 directions were taken that the applications be canvassed by viva voce evidence but later on 31.5.2018 the court established that the only asset falling for distribution was LR Abothuguchi/Githongo/685. This was upon perusal of Green cards for LR Abothuguchi/Githongo/186 and 762 produced by Johns Kaburu Matiri. LR No. Abothuguchi/Githongo/750 was also evidenced to belong to M'Murithi Matiri son of Matiri – Ex 1, 2 and 3.

When the succession cause herein was filed the only asset listed was LR Abothuguchi/Githongo/685. Grant of Letters of Administration was made to the estate to Joseph Nkonge Matiri on 28<sup>th</sup> February 2007 and on account of delay to apply for confirmation. Johnson Kaburu Matiri by an application dated 31<sup>st</sup> March 2016 applied that grant to petitioner be revoked and substitute him with the original petitioner.

The petitioner Joseph Nkonge by Replying Affidavit sworn on 5<sup>th</sup> May 2016 opposed application for revocation. He said applicant had intermeddled with LR 186 and 162. He gave list of assets as:-

1. Abothuguchi/Githongo/685 – 4.80 acres
2. LR Abothuguchi/Githongo/186 – 2.30 acres
3. LR Abothuguchi/Githongo/762 – 1.20 acres
4. LR Abothuguchi/Githongo/750 – 0.88 acres
5. LR Nanyuki/Nturukuma/643 – 2.00 acres
6. LR Nanyuki/Nturukuma/2751 – 0.1255 acres

The application dated 15.9.2017 was disposed off when the court established that properties No. Abothuguchi/Githongo 186,762 and 750 were not in the names of the deceased. The court advised that in order to establish source and genesis of the parcels of land that have been found to be in the names of Johnson Kaburu and M'Murithi, Joseph Nkonge Matiri might have to seek redressing the Environment and Land court. no orders of costs in application dated 20<sup>th</sup> September 2017.

This court sought for and obtained Records of LR Abothuguchi/Githongo/685 but is yet to obtain records for LR Nanyuki/Nturukuma/643 and 2751. The grant of letters of Administration made to Joseph Nkonge Matiri on 28.2.2007 is now revoked and same made to Joseph Nkonge Matiri and Johnson Kaburu Matiri jointly. The administrators are hereby directed to file summons for confirmation of the grant

made herein immediately and not later than 14 days from date of ruling for consideration of the court on 8.4.2019.

Where the Joint Administrators are not able to agree on mode of distribution each may file and serve their proposals on each other as well as on all beneficiaries for distribution of :-

1. LR. Abothuguchi/Githongo/685
2. LR Nanyuki/Nturukuma/643 and 2751

Joseph Nkonge applicant in application dated 27.11.2018 should supply the court with certified copies of green card for Nanyuki properties. This ruling is therefore deemed to have disposed applications dated 31.3.2016, 15.9.2017 and 27.11.2018. What is pending is distribution of assets established to be in the names of the deceased.

**HON. A.ONG'INJO**

**JUDGE**

**RULING DELIVERED, DATED AND SIGNED IN COURT ON THE DAY OF 7<sup>th</sup> MARCH 2019**

**HON. A.MABEYA**

**JUDGE**