



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 242 OF 2003

IN THE MATTER OF THE ESTATE OF THE LATE M'RIMBERIA M'IKIRIMA (DECEASED)

JENIFFER MUKAMI.....1ST PETITIONER/APPLICANT

VERSUS

GERALD MURANGIRI RIMBERIA (Suing as legal representative of the Estate of

REBECCA M'RIMBERIA)..... 2ND PETITIONER/RESPONDENT

RULING

1. The 1st petitioner filed summons for confirmation of grant on 16th January 2019. She prayed that, pursuant to the Court Order issued on 6th November 2018, the application be grant in terms of her annexed affidavit sworn on 16th January, 2019.
2. In her affidavit of 16th January, 2019, the 1st Petitioner contended that as the widow of the deceased, she has capacity to make the proposal on the mode of distribution of the estate. She proposed that the estate be distributed amongst sixteen (16) beneficiaries of the estate who she referred to as the sons and daughters of the deceased.
3. The application was opposed by the respondent through his replying affidavit sworn on 26th February 2019. He averred that the confirmed grant dated 14th April 2009, has never been revoked or challenged and all that remained was its implementation. That the applicant was seeking to redistribute the estate to persons who have already denounced their share in open court. He denied the existence of any order made on 6th November 2018 directing the making of a fresh application for the distribution of the estate.
4. The applicant filed a supplementary affidavit sworn on 18th June 2019 wherein she contended that the decision by Justice Lesiit dated 17th February 2011 warranted the move to amend the distribution. That she has never agreed to the mode of distribution of the estate.
5. Both parties dully filed their written submissions which I have dully considered.
6. It is clear from the record that, on 23rd May 2008, Emukule J delivered a judgment that distributed the estate of the deceased. In the judgment, the issue of the daughters' renunciation of their interest in the estate was considered and determined. The court also considered the 1st petitioner's claim that the estate be distributed to the two houses equally.
7. The 1st petitioner was not satisfied and on 26th June, 2008, she applied for the review of that judgment on the grounds that the daughters had been left out of the distribution. She once again urged the court to distribute the estate into two equal shares between the two houses of the deceased. After considering the application, Emukule J dismissed the same by a ruling made on 9th April, 2009.
8. Once again, on 3rd November, 2010, through the firm of Elijah K. Ogoti & Co. Advocates, the 1st petitioner applied for the review of the said judgment. She once again sought that the daughters be considered and that the estate be distributed equally between the two houses. That application was heard by Lesiit J who dismissed the same on 17th February, 2011.
9. In the meantime, the 2nd petitioner (now deceased) had applied that since the 1st petitioner had refused to co-operate in having the grant effected, the Deputy Registrar of this court be authorised to execute all documents to effect the same. That order was allowed by Lesiit J on 17th February, 2011.
10. Thereafter, the original 2nd petitioner died and the current 2nd petitioner applied to be substituted in the stead. That application was allowed by Mrima J on 6th November, 2018. I have read that ruling and nowhere was it indicated that a fresh application for re-distribution

of the estate be made. To the extent that the 1st petitioner alleged that the court made such an order, that was a clear lie.

11. From the long history that I have set out above, it is crystal clear that the 1st applicant, with the assistance of her various legal advisers, is hell bent on frustrating the conclusion of this matter. She has made what is clearly applications that are an abuse of the court process, the present one being one of them. The law is clear on what one is to do if aggrieved by a decision of the court. She should have appealed to the Court of Appeal if she was dissatisfied with the judgment. Making multiple applications before this court is but outright abuse of the court process.

12. In the premises, I find the application dated 16th June 2019 to be unmeritorious and dismiss the same with costs. Since the orders of 17th February, 2011 are still subsisting, the Deputy Registrar is directed to proceed and ensure their compliance.

It is so ordered.

DATED and DELIVERED at Meru this 19th day of September, 2019.

A. MABEYA

JUDGE