

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

SUCCESSION CAUSE NO. 947 OF 1999

IN THE MATTER OF THE ESTATE OF MARGARET WANJIKU KAMAU (DECEASED)

RULING

1. The notice of motion dated 29th April, 2014 having been secured as is evinced by the stamp dated 5th June, 2014 and today's hearing notice having been served on 14th October, 2019 the court is satisfied that the Respondent was properly served with the application and the hearing notice.
2. I note from the record that there has been no response to the application. There are no grounds of opposition filed nor is there an affidavit in reply filed thereto. Reasons wherefore I find that the application is not opposed.
3. I have perused the grounds of the said application and the supporting affidavit. The grounds state that the Respondents John Kamau Mwaura and David Kanyori Mbiriri fraudulently obtained Grant of letters of Administration dated 2nd March, 1998 and had it confirmed on 16th November, 1998, in Kiambu SPM Court in Succession Cause No. 292 of 1997. They subsequently caused entries to be made in the Register of Land Ref. Gatamaiyu/Kamburu/340.
4. When the Administrator came to know what had transpired he successfully filed for revocation of the grant. On 30th July, 2002 the Grant was revoked. The Respondents objection to the confirmation of grant to the Administrator was dismissed on 25th June, 2008.
5. The certificate of confirmation was issued to Njuguna Kamau Wanguku, Peter Ndung'u Kiboro and Kageche Mukua on 10th November, 2009.
6. Upon the demise of Kageche Mukua on 27th May, 2010 he was substituted by Stephen Mukua Kageche and Francis Mbugua Kageche, and a certificate of confirmation issued on 23rd April, 2014.
7. Learned Counsel Mr. Kamere submitted that the Administrators have been unable to administer the estate and distribute it to the beneficiaries because the entries made by the Respondents are still subsisting in the Register of Land.
8. Counsel prayed that entries No. 23 dated 17th June, 1999 and No. 24 dated 9th September, 1999 be deleted from the Register to enable the Administrators comply with the court orders.
9. From the foregoing I am satisfied that the application has merit. In the premise the Notice of motion dated 29th April, 2014 be and is hereby granted with orders that:

(i) The land Registrar Kiambu be and is hereby ordered to cancel Entry No. 23 dated 17th June, 1999 and remove the names of John Kamau Mwaura and David Kanyori Mbiriri from the Register of Land Ref. No. Gatamaiyu/Kamburu/340.

(ii) The Land Registrar, Kiambu be and is hereby ordered to cancel Entry No. 24 dated 9th August, 1999 and remove the names of John Kamau Mwaura and David Kanyori Mbiriri from the Register of Land Ref. Gatamaiyu/Kamburu/340.

Costs are awarded to the Applicants.

SIGNED DATED AND DELIVERED IN OPEN COURT THIS 19TH DAY OF NOVEMBER 2019.

LYDIA ACHODE

JUDGE.