

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

SUCCESSION CAUSE NO. 123 OF 1996

**IN THE MATTER OF THE ESTATE OF MUSA THAIRU MWANGI ALIAS THAIRU MWANGI alias MUSA THAIRU -
(DECEASED)**

PETER MBURU MWAURA.....APPLICANT

VERSUS

JOSEPH MWANGI THAIRU.....1ST RESPONDENT

PETER NJOROGE THAIRU.....2ND RESPONDENT

RULING

1. The facts of this application are not in dispute.
2. The deceased Musa Thairu Mwangi alias Thairu Mwangi alias Musa Thairu died intestate on 9th December 1994. The respondents Joseph Mwangi Thairu and Peter Njoroge Thairu were two of his children. They petitioned this court for, and were granted, letters of administration intestate. The grant was confirmed on 3rd October 1997.
3. According to the certificate of confirmation Daniel Mwara Kamau was to get 1.68 acres of Ndarugu/Gacharage/1589. To the time the present application dated 6th November 2003 was filed, the respondents had not transferred the parcel of land to Daniel Mwara Kamau. It turned out that the correct names of Daniel Mwara Kamau were Mwaura Kamau. He requested the respondents to apply to correct the names and to transfer the parcel, to no avail. In this application he sought the revocation of the grant for him to take over the administration of the estate and to transfer the parcel to himself. He died while the application was pending. His son Peter Mburu Mwaura (the applicant) successfully applied to take over the matter.
4. The application was served on the respondents who did not respond.
5. It is true that the respondents have not acted diligently and have failed to complete the administration of the estate. This could be a ground for revocation.
6. However, the most effective way to deal with the application is not to revoke the grant (and set aside the certificate of confirmation). The most effective way is to order, which I hereby do, the Deputy Registrar of this court to sign all the necessary papers to effect the transfer of 1.68 acres of Ndarugu/Gicharage/1589 to the applicant Peter Mburu Mwaura who shall hold it in trust for the estate of the deceased Mwaura Kamau.
7. Costs shall be borne by the respondents.

DATED and DELIVERED at NAIROBI this 18TH NOVEMBER 2019.

A.O. MUCHELULE

JUDGE