



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

SUCCESSION CAUSES NO. 135 OF 2011

IN THE MATTER OF THE ESTATE OF NGUU MBAROMWE ALIAS NGUO MBARIMWE (DECEASED)

MILIAM IRIMA NGUU.....APPLICANT

V E R S U S

MERCY NJERI NJUE.....RESPONDENT

R U L I N G

1. This is the application dated 8/02/2017 seeking for the following orders:-

(a) That the District Land Registrar Embu District be ordered to cancel and/or delete the name of JOSEPH NJUE NGUU from the proprietorship Section of the Register for Land Parcel Number Ngandori/Kirigi/882 and to reinstate the name of NGUO MBARIMWE in the proprietorship Section of the Register for Land Parcel Number Ngandori/Kirigi/882 as proprietor of the said Land so that the same can be distributed as part of the Estate of Nguu Mbaromwe alias Mbarimwe.

(b) That the Respondent by herself, her agents, servants and/or anybody acting under the Respondent's instructions be restrained from entering upon, occupying, utilizing, cutting down trees, constructing any buildings or structures and committing other acts of wastage and degradation, harvesting coffee beans or in any other way dealing with Land Parcel Number Ngandori/Kirigi/882 or with the Applicant's use and occupation of the said Land or inter- meddling with the Estate of Nguu Mbaromwe Alias Nguo Mbarimwe deceased pending the finalization of this cause.

2. The applicant deposes that she is the widow of the deceased in this case Nguu Mbarimwe. She states that she filed this case in the year 2011 seeking letters of administration intestate. Before the estate was distributed she learnt that her daughter in law, the respondent had filed another Succession Cause No. 67 of 2010 where she had distributed the estate of her late husband being LR. Ngandori/Kirigi/882. The succession cause was finalized and estate distributed to the respondent and her two children.

3. In this case, the applicant being the widow of the deceased Nguu Mbarimwe was issued with letters of administration intestate. The respondent unsuccessfully applied for revocation of the grant. In his ruling dated 7/12/2016, Bwonwonga J. in dismissing the application for revocation of grant found that the husband of the respondent who is the son of the deceased herein had fraudulently obtained registration of the land through transmission to his name and disinherited all the other beneficiaries.

4. This application seeks to have the registration obtained by the respondent of L.R. Ngandori/Kirigi/882 by her late son Joseph Njue Nguu canceled.

5. If any orders are issued in this cause and especially in this application, it will definitely affect the orders of distribution made in Succession Cause No. 67 of 2010. In my considered view this cause ought to be heard alongside Succession Cause No. 67 of 2010. The two deal with the same asset LR. Ngandori/Kirigi/882 which land has been declared as rightly belong to the deceased in this cause. The land is still in the name of Joseph Njue Nguu who is now deceased and who obtained the registration in his name fraudulently.

6. With this background, I find that it will not be in the interests of justice for the parties to deal with the two files separately. The counsels for the parties in the two causes ought to have applied for consolidation of the two files.

7. I hereby direct that succession cause No. 67 of 2010 be joined with this cause No. 135 of 2011 for purposes of determining this succession cause.

8. The application dated 8/02/2017 is hereby held in obedience pending the consolidation of the two files.

9. It is hereby so ordered.

DELIVERED, DATED AND SIGNED AT EMBU THIS 5TH DAY OF JUNE, 2018.

F. MUCHEMI

J U D G E

In the presence of:-

Mr. Okwaro for Applicant

Ms. Muriuki for Njiru for Respondent