

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 456 OF 2004

IN THE MATTER OF THE ESTATE OF JOICE NYAMBURA NYANJA (DECEASED)

RULING

1. The deceased herein died on 24th October 2003.
2. Representation to her estate was sought by Gideon Nyanja Kuria, in his capacity as widower of the deceased. Two letters from the Chief of Chania Location dated 6th February 2004 and 5th March 2004 say that he is the sole survivor of the deceased, and there is a copy of a marriage certificate serial number 913223 indicating that the parties married at the PCEA Makadara on 11th December 1999. Her estate is said to comprise only of her death gratuity. A grant of letters of administration was made to the petitioner on 28th April 2004.
3. An appearance was entered in the cause on 27th May 2004 by Njeri Kirenga Macharia and Cynthia Wanjiku Kirenga. An application for revocation of the grant was lodged in the cause on the same date by the said Njeri Kirenga Macharia. She stated that she was sister of the deceased, and disclosed that there was another succession cause at Eldoret filed by the mother of the deceased. The other cause was said to be Eldoret HCSC No. 34 of 2004.
4. The applicant in the revocation application then filed a summons dated 28th June 2004, to stop the administrator from collecting the terminal benefits from the deceased's employer, and to call for accounts. She alleged that the deceased had executed a will in her favour. Interim orders were made on 12th July 2004 for maintenance of *status quo* in respect of the estate.
5. The parties subsequently filed a written consent on 29th October 2004 to dispose of the estate equally between them. An amended consent dated 29th October 2004 was lodged in the registry on 4th September 2008. The consent of 29th October 2004 was adopted on 17th November 2004 as an order of the court. It was meant to dispose of both the Nairobi and the Eldoret causes.
6. The administrator then lodged a summons for confirmation of grant dated 25th November 2008 seeking confirmation of the grant in the terms of the amended consent filed in court on 4th September 2008. When the said application was placed before Rawal J on 23rd February 2009, it was directed that the applicant provide proof of ownership of the property sought to be distributed. I have perused the file and noted that there has been no compliance with the order of 23rd February 2009.
7. The consent on record makes reference to plots at Kitengela, Kingongo and old Uganda Road. There should be proper description of these assets, and copies of the documents of title must be provided. The documentation relating to NCPB, Nafaka Sacco Ltd, Railway Housing Cooperative Society Limited and Standard Chartered Bank Kenya Limited should also be placed before the court.
8. For the reasons given above I shall postpone confirmation of the grant herein until such time that there is compliance with the order of 23rd February 2009.

DATED, SIGNED and DELIVERED at NAIROBI this 20TH DAY OF JANUARY, 2017.

W. MUSYOKA

JUDGE