



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**SUCCESSION CAUSE NO.323 OF 2006**

**IN THE MATTER OF THE ESTATE OF THE LATE WIRIIMANYARA (DECEASED)**

**JULIA GACHORAWIRI .....PETITIONER**

**-VERSUS-**

**JOSEPH GAKOTHA M RUCIAKA ..... APPLICANT**

**RULING**

**Service paramount**

Application dated 18<sup>th</sup> March 2013 is for revocation of grant. The grant herein was confirmed, and certificate of confirmation of grant was issued on 11<sup>th</sup> March 2008. In the certificate of confirmation 3 beneficiaries shared the estate in the following manner:-

- (a) Zaverio Mururu L.R. No. 4154 Kianjai Adj. Sect 50 points**
- (b) Julia Gachoria Wiri L.R. No. 4154 Kianjai Adj. Sect. 1 Acre**
- (c) Kenneth Marimba M'Mthambura L.R. No. 4154 Kianjai Adj. Sect 2.30 Acres**

The applicant has not stated whether the estate has been distributed or not. But what is of paramount importance is that all the beneficiaries have not been served with the application yet they will be affected by any revocation of the grant. The affidavit of service sworn on 13<sup>th</sup> June, 2016 only relates to service of a hearing notice upon the petitioner at Mbeu location Kamarui sub-location, Kimarichia Village. That kind of service is too general and may not be relied upon in making such grave orders sought. The process server should specifically state the manner in which the pleading or notice was served, the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the pleading or notice being served. Needless to state therefore that it is necessary in this case to have given details of and describe the exact place the petitioner was served, for instance at her home or in an office located at such and such place etc. I also note the directions on 14<sup>th</sup> June, 2016 that submissions be filed and served were not adhered to; submissions were not served. Now therefore, when I take all these into account, I feel that justice must not only be done but be seen to be done. Accordingly, as service is part of fair hearing for, it affords parties an opportunity to be heard, I order that:

**(a) All the beneficiaries be served with the application dated 18<sup>th</sup> July 2013 and the submissions by the applicant.**

**(b) A proper affidavit of service on the above to be filed immediately upon service.**

**(c) Meanwhile, I arrest the ruling herein until (a) and (b) above are done.**

**(d) Mention on 20<sup>th</sup> February 2017 for directions.**

It is so ordered.

**Dated, Signed and delivered in open court at Meru this 16<sup>th</sup> day of January, 2017.**

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**F. GIKONYO**

**JUDGE**

**In the presence of:**

Mutura advocate for applicant

Petitioner absent

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**F. GIKONYO**

**JUDGE**