



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAJIADO

SUCCESSION CAUSE NO. 97 OF 2015

(Formerly Machakos Succession Cause No. 1007 of 2009)

IN THE MATTER OF ESTATE OF KANCHOI KIMITI alias KANCHAOI KIMITI(DECEASED)

BETWEEN

MARY NJERI MBURU.....APPLICANT/INTERESTED PARTY

SENETO KANCHAOI KAMITI

NAMBULU KANCHAOI KIMITIRESPONDENTS/PETITIONERS

SIYIAMA KANCHAOI KIMITI

RULING

Introduction

1. The deceased herein, Kanchaoi Kimiti died on 8th July 2001 domiciled at Ilodaariak Sub Location, Sultan Hamud. Before his death, the deceased entered into an agreement with Karugu Guandai alias Peter Karugu Guandai (also deceased) on 3rd April 1990 for sale of land parcel number KAJIADO/KITENGELA/2355 and KAJIADO/KITENGELA/2356. Peter Karugu was registered as the proprietor of the two parcels of land on 5th October 2005.
2. The Respondent/Petitioner petitioned the High Court at Machakos for Grant of Letters of Administration Intestate in respect of the estate of Kanchaoi Kimiti alias Kanchoi Kimiti. The Petitioners Seneto Kanchaoi Kamiti, Nambulu Kanchaoi Kimiti and Siyama Kanchaoi Kimiti described themselves in Form P&A 5 as wives of the deceased.
3. In the Petition in support of the Letters of Administration sworn on 3rd December 2009 by Seneto Kanchaoi Kamiti, Nambulu Kanchaoi Kimiti and Siyama Kanchaoi Kimiti and filed on 11th December 2011, it was deponed that the deceased Kanchaoi Kimiti alias Kanchoi Kimiti was the owner of KAJIADO/KITENGELA/2355 and KAJIADO/KITENGELA/ 2356(which is the subject of this Application).
4. The petition for Grant of Letters of Administration being cause No.1007 of 2009 was published in the Kenya Gazette vide Gazette Notice No.13863 of 24th December 2009. The Grant was issued on 5th February 2010. On the 2nd December 2010, the Grant was confirmed and the disputed estate shared out as follows:-

- SEMETOI KANJAWOI KIMITI – KJD/KITENGELA/2355 –30 acres
- NABULU KANJAOI KIMITI– KJD/KITENGELA/2355 – 30 acres
- SIYAMA KANJAOI KIMITI– KJD/KITENGELA/2355 – 30 acres
- NABULU KANJAOI KIMITI– KJD/KITENGELA/2355 – 10 acres
- SEMETOI KANJAOI KIMITI- KJD/KITENGELA/2356 – 12 acres
- SEMETOI KANJAOI KIMITI- KJD/KITENGELA/2356 – 8 acres
- NABULU KANJAOI KIMITI- KJD/KITENGELA/2356 – 8 acres
- NABULU KANJAOI KIMITI- KJD/KITENGELA/2356 – 8 acres
- NABULU KANJAOI KIMITI- KJD/KITENGELA/2356 – 8 acres
- NABULU KANJAOI KIMITI- KJD/KITENGELA/2356 – 4 acres
- SIYAMA KANJAOI KIMITI- KJD/KITENGELA/2356 – 43 acres

The Application

5. By summons filed before this court on 2nd November 2011, the applicant herein Mary Njeri Mburu moved the court under sections 47, 76 of the Law of Succession Act, Cap 160 of the Laws of Kenya (the Act) and Rule 44 & 73 of the Probate and Administration Rules (the Rules) and the inherent powers of the court for the following orders;

1. That this summons be certified urgent and heard ex-parte in the first instance

2. That Pending Inter-parties hearing of this application, the Respondents, their servants, agents or any other person claiming under them be restrained by an order of injunction from entering into or removing the applicant or interfering with any order interfering with any structures erected upon Kajiado/Kitengela/32546, 32547, 32548, 32549, 32550, 32551, 32552, 32553, 32554, 32555, 32556, 39402, 39403, 39404, 39405, 39406, 39407, 39408, 39409, 30410, 39411, 39412, 39413, 39414, 39415, 39416, 39417, 39418, 39419, 39420, 39421 and 39422 being subdivisions of Kajiado/Kitengela 2355 and 2356.

3. That pending the final gearing and determination of this Application, the Respondent, servants, agents or any person claiming under them be restrained by an injunction from entering into or removing the Applicant or interfering with any structures erected upon Kajiado/Kitengela/32546, 32547, 32548, 32549, 32550, 32551, 32552, 32553, 32554, 32555, 32556, 39402, 39403, 39404, 39405, 39406, 39407, 39408, 39409, 30410, 39411, 39412, 3941, 39414, 39415, 39416 ,39417 ,39418, 3949, 39420, 39421 and 39422 being subdivisions of Kajiado/kitengela 2355 and 2356.

4. That the OCPD Ongata Rongai Police Station to enforce prayer (2) and (3) hereinabove.

5. That pending the hearing and determination of this application the Honourable court be pleased to issue an order inhibiting the registration of any dealings with those parcels of land Known as Kajiado/Kitengela/32546, 32547, 32548,32549,32550, 552, 32553, 32554, 32555, 32551, 32552, 32553, 32554, 32555, 32556, 39402, 39403, 39404, 39405, 39406, 39407, 39408, 39409, 30410, 39411, 39412, 3941, 39414, 39415, 39416, 39417, 39418, 3949, 39420, 39421 and 39422 or any subsequent subdivisions thereof.

6. That the order of inhibition be registered against the parcels of land known as Kajiado/Kitengela/32546, 32547, 32548, 32549, 32550, 32551, 32552, 32553, 32554, 32555, 32556, 39402, 39403, 39404, 39405, 39406, 39407, 39408, 39409, 30410, 39411, 39412, 3941, 39414, 39415, 39416, 39417, 39418, 3949, 39420, 39421 and 39422 or any subsequent division thereof.

7. That the District Land Registrar Kajiado enforce prayer (6) herein above.

8. That the grant of letters of Administration to the estate of Kanchaoi Kimiti alias Kanchoi Kimiti issued to Seneto Kanchaoi Kimiti, Nambulu Kanchaoi Kimiti and Simiyama Kanchaoi Kimiti on

the 5th February 2010 be revoked.

9. That the Land Registrar revoke all the illegal title deeds issued for all subdivisions known as Kajiado/Kitengela/32546, 32547, 32548, 32549, 32550, 32551, 32552, 32553, 32554, 32555, 32556, 39402, 39403, 39404, 39405, 39406, 39407, 39408, 39409, 30410, 3941, 39412, 39413, 39414, 39415, 39416, 39417, 39418, 3949, 39420, 39421 and 39422 and the Land Register be endorsed accordingly.

10. That the Land Registrar in Kajiado reinstate the Title deeds for Kajiado/Kitengela/2355 and Kajiado/Kitengela/2356 in favour of Karugi Guandai.

11. That costs of this application be provided for.

6. The Application was based on grounds that the grant was obtained fraudulently by the making of a false statement to wit that the parcels of land known as Kajiado/Kitengela/2355 and Kajiado/Kitengela/2356 were the property of Kachaoi Kimiti alias Kanchoi Kimiti; that the grant was obtained fraudulently by the concealment from the court something material to wit that Kajiado/Kitengela/2355 and 2356 were the property of the late Karugi Guandai alias Peter Karugi Guandai and the allegation that in the affidavit in support of the petition for letters of administration intestate that Kajiado/Kitengela/2355 and 2356 belonged to the deceased was untrue; and that the objector applicant is the person who is presently in possession of Kajiado/Kitengela/32546, 32547, 32548, 32549, 32550, 32551, 32552, 32553, 32554, 32555, 32556, 39402, 39403, 39404, 39405, 39406, 39407, 39408, 39409, 30410, 39411, 39412, 39413, 39414, 39415, 39416, 39417, 39418, 39419, 39420, 39421 and 39422 being illegal subdivisions of Kajiado/Kitengela/2355 and 2356 and has in her custody the original title deeds for Kajiado/Kitengela/2355 and 2356.

7. The Application was supported by an Affidavit sworn by MARY NJERI MBURU on 2nd November 2011.

8. The deponent states that she is the widow to Karugi Guandai alias Peter Karugi Guandai and that she is the interim administrator of the estate of Peter Karugi Guandai. She stated that she is a beneficiary to his estate and trustee of his minor children. The Applicant deponed that her husband died on 26th August 2009 and produced a copy of the burial permit and limited grant Marked MNM1.

9. She further deponed that immediately after the husband purchased LR No. Kajiado/Kitengela/2355 and 2356 from the late Kanchaoi Kimiti alias Kanchoi Kimiti he took possession thereof and constructed shed to accommodate his herdsman and a boma and began rearing goats but upon his death, the goat-rearing venture was abandoned.

10. Applicant further depones to her surprise, it came to her attention that the Respondents had applied for grant of letters of administration and that in their Affidavit in support of their petition, they had falsely deponed that Kanchaoi Kimiti alias Kanchoi Kimiti was the owner of LR No. Kajiado/Kitengela/2355 and Kajiado/Kitengela/2356.

11. Applicant deponed that this was untrue based on the fact that there was an agreement for sale dated 3rd April 1990 between the deceased and her late husband; that the mandatory consent from the Land Control board was sought and granted and finally that Karugi Guandai (her late husband was registered as the proprietor of Kajiado/Kitengela/2355 and 2356 on 5th October 2005. Applicant produced copies of the title deed, the agreement for sale, a copy of the cheque of the initial deposit of the sale price, the application for consent and the letter of consent marked **MNM2**.

12. She further depones that it is curious that although Kanchaoi Kimiti alias Kanchoi Kimiti died on 8th July 2001, the Petition for grant of letters of administration was filed on 11th December 2009 approximately three (3) months after the passing of her late husband Karugi Guandai alias Peter Karugi Guandai.

13. Applicant stated that all the subdivisions of Kajiado/Kitengela/2355 and 2356 effected by the Respondents were issued before grant of letters of Administration were confirmed. That she lodged a complaint at Ongata Rongai police station after getting information from her neighbours that the land was being offered for sale by unknown people; That she caused a caveat emptor to be placed in the Daily Newspaper on 17th March 2011 (MNM 3).

14. Applicant further deponed that she obtained a court order inhibiting the registration of any dealings with the parcels of land or any subsequent sub divisions or restraining the respondents from entering into or removing the applicant from the land but despite being served with the order, the Land Registrar in Kajiado failed to inhibit the register and subsequent subdivision and transfers were effected. Applicant attached copies of mutation forms marked **MNM 6** and further attached copies searches showing the new transfers, **MNM7**.

15. She further deponed that the Respondents through their agents invaded the land on various occasions and pulled down a total of eight (8) notice boards erected at different times. She attached copies of the stamps of the notice board marked **MNM8**. The deponent further stated that the Respondent's agents invaded the land on 31/8/1011 and pulled down the notice board and hijacked the workers which report was made to the police at Ongata Rongai entry No. OB/37/31/8/11.

16. That the Respondents have consistently and continuously engaged various gangs of hostile youth to invade the land and threaten the workers and since April she has engaged more than five sets of guards who have left due to death threats. That on 30th October 2011 the gang invaded the land and arrested the Applicant's workers and guards and took them to Kasasi police post where they were detained and were only released after the applicant exhibited the court order to the officer in charge.

17. The deponent also stated that the OCPD Ongata Rongai has been unable to intervene in the absence of a specific court order.

The Response

18. The petitioners/respondents are opposed to the interested party's application dated 2nd November 2011 and they do so through a replying affidavit sworn by Nambulu Kanchoi Kimiti.

19. In their response the respondents aver that the deceased until his demise was registered as the owner of land parcels known as Kajiado/Ololoitikoshi/Kitengela/2355 and Kajiado/ Ololoitikoshi/2356. **Annexed as "NKK-1"- copies of titles.** It is their further response that on or about April 2005, after the death of the deceased and that pending the family agreement on the administrators of the estate, they instructed two sons namely Kanyakua Kanchoi and Douglas Kone Kanchoi to lodge a restriction over the deceased's properties to preserve them as they waited most of the sons to be of majority age. **Annexures NKK-2- copies of searches and application for withdrawal.**

20. It is their contention further that they conducted a search and were surprised to find out that the subject parcels of land had been transferred to one Karugu Gundai, the interested party/applicant's wife on or about 5th October 2005. The respondents further aver that they requested for an abstract title and found out that the entries for the transfer had never been signed by the registrar. **Annexure NKK-3-copy of green card & NKK-4- copy of registered mutation**

21. It is their case further that having discovered the anomaly they rushed to court and filed an application with the Senior Resident Magistrates Court in Kajiado where by an order of the said court the District Land Registrar was ordered to delete the entries entered in the green card. **Annexure NKK-5 Copy of Application.** It's their further averments that having obtained the court order, the administrators transferred the subdivisions of the parcels of land to the persons rightfully entitled. **They annexed transfers and certificates of official searches and marked as "NKK-6"**

22. The respondent in her reply further states that the interested party deliberately failed to disclose to the

court of her knowledge of the matter in Kajiado Court noting that she was fully aware of the same. She further contends that the interested party reported that matter to the police and that all parties were summoned and the police found no wrong doing on the part of the respondents. She asserts further that the interested party in their presence and that of the police accepted that the parcel of land had been irregularly transferred and also conceded that she did not have authority from the family of the deceased to pursue the matter on their behalf. **Annexure NKK-7- copy of searches and court order**

23. The respondent also states that while the investigations were ongoing a restriction was placed on the parcels of land by the District Land Registrar which was removed with the concurrence of the interested person. It is her further assertion that the application is defective since the applicant has no locus standi to institute the proceedings.

24. As regards the purported sale agreement and transfer of parcel of land to the said Karugu Gundai, the respondents aver that their deceased husband had never sold the said land to him and that at the time of their husbands time of death they assert that the properties were in their husbands names and that they were in possession of the original title documents. They further assert that the circumstances of transfer are questionable and strange since the sale agreement and consent from land control board were entered into and issued in the year 1990 but the land was never transferred until 2005 after the demise of the deceased.

25. The respondents also state that they neither knew the interested party's purported late husband nor have any connection with him and further state that contrary to the allegations of the interested party, she was the one who has been using the police to harass the respondents to the extent of barring them from erecting any structures in the land.

26. The respondents further assert that the grant issued by this court was issued legally and without any fraudulent concealment of facts and should therefore not be revised.

Applicant's/ Interested Party's submission

27. Counsel for the Applicant submitted that the Applicant has capacity in that she is the widow of the late Peter Karugu Guandai whose properties were wrongly listed in the Affidavit in support of the Petition by Respondents herein where they are seeking grant of letters of Administration in respect of the estate of the late Kanchoi Kimiti. The Applicant therefore has a duty to ensure that the property of her late husband is preserved and further, she has obtained a limited grant of letters of Administration ad litem so as to safeguard and protect the estate of her late husband.

28. On *Locus standi*, counsel submitted that this Application is properly before the court as Sec 47 of the Law of Succession Act gives the Court the jurisdiction to entertain any Application and also Rule 73 of the P & A rules gives this court wide jurisdiction and discretion.

29. On the orders prayed, it was submitted that the Applicant has satisfied the requirements as set out in the celebrated case of **Giella Vs Cassman Brown** as she is the widow of the owner of the suit properties and that she will suffer irreparably if the suit property is disposed off through selling by the Respondents herein and further that the balance of convenience is in favour of the Applicant as she is in possession of the title documents.

30. Counsel further submitted that the Respondents will not suffer any prejudice if the orders on placing of inhibitions on the title deeds are granted because the portions of land represented by those certificates of title resulted from the irregular subdivision of the parcels of land known as KAJIADO/KITENGELA/2355 and KAJIADO/KITENGELA/ 2356.

31. On orders for revocation of grant of letters of Administration in respect of the estate of the late Kanchoi Kimiti, counsel submitted that in petitioning the Court for grant of letters of Administration, the Respondents failed to obtain and attach copies of search certificates to show that the property belonged to their late father as is the requirement and practice and therefore this shows that the Respondents knew that

the property in question did not belong to their late father and therefore the grant was obtained fraudulently through concealment of material facts.

32. Finally counsel submitted that with regard to the order to the order for revocation of the illegal title deeds which resulted from subdivision of the original parcels known as KAJIADO/KITENGELA/2355 and KAJIADO/KITENGELA/ 2356, the titles should be revoked as the title deeds were obtained unprocedurally, fraudulently and through corrupt scheme.

Respondents/ Petitioner's submissions

33. Counsel for the responded submitted that the issues for determination are; whether the Applicant has the locus standi to apply for the revocation of the grant; Whether the Applicant's Application is defective; whether the grant was fraudulently obtained by concealment of material facts; whether the titles in the Applicant's possession are valid and further whether the Respondents' title should be revoked.

34. On Locus standi, counsel submits that the Applicant, by relying on the entire S 76 has no *Locus Standi* and is a busy body who should not poke her nose into the in-house issues, affairs and the operation of the grant in the Respondent's estate. Counsel relied on Maraga J's precedent in ***Re Estate of Jackson Mugo Mathai (deceased) [2010] eKLR*** where he stated as follows;

"..... It is only the persons listed in sec 66 who, as it were have a stake in the estate who in my view can legitimately bring applications under Section 76(a) (b) and (c) of the Law of Succession Act challenging the proprietary of the grant making process. Persons who are not qualified to apply for grant would have no basis for challenging the grant.

35. On whether the Application is defective, counsel submitted that the Applicant has no *locus standi* to institute these proceedings as it contravenes mandatory provisions of the law and it should therefore be struck out with costs to the petitioners/Respondents. Counsel demonstrated that some of the mandatory provisions that were breached include failure to serve all parties to this cause especially the third parties who were purchasers for value. The Applicant also failed to disclose the extent of administration of the estate of the Respondent's husband and finally that the summons for revocation are not in the required format (form 107) under the rules. Counsel offered two authorities; ***In Re Estate of Murimi [2002] 2 KLR*** and ***in Re Estate of Gitau [2001] KLR***. Counsel urged this court to find that the Applicant's application is fatally defective and beyond redemption.

36. Counsel submitted that instead of seeking revocation of the entire grant, the applicant has overstepped her mandate in seeking for revocation of grant and that instead, she should be seeking for orders that the disputed parcels be deleted and or removed from the schedule of deceased's assets. Reference was made to Justice Maraga's pronouncement in *Re Jackson Mugo Mathai (Supra)* where he stated;

"..... Persons who are not qualified to apply for grant would have no basis for challenging the making of the grant...."

37. Counsel further submitted that at no point should the validity and soundness of the parent grant for the entire process be affected and directed this court to the authority ***In Re Estate of Ngugi [2002] 2 KLR***.

38. As to whether the grant was fraudulently obtained or was obtained by concealment of material facts, counsel submitted that the Applicant has not proved the presence of fraud in obtaining the grant. Counsel submitted that Sec 2 (1) of the Law of Succession Act does not give any timeline for application of a grant and that therefore delay in applying for a grant should not be grounds for suspicion.

39. Counsel referred this court to the definition of fraud according to the Black's Law Dictionary 9th Edition as

"..A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment.."

40. Additionally, counsel referred to the definition of Material fact according to Black's Law Dictionary, 9th Edition as;

“...Something that actually exists; an aspect of reality..... facts include not just tangible things, actual occurrences, and relationships, but also states of mind such as intentions and opinions. 2. An actual or alleged event or circumstance, as distinguished from its legal effect, consequence or interpretation.”

41. Counsel submitted that from the forgoing, the court ought to establish whether indeed there was concealment of any material fact as at the time of Application for the grant by the Respondents as the disputed parcels of land were still registered under their late husband's name and also to establish whether the Respondents were aware of the purported sale by their late husband to the Applicant's husband.

42. Counsel further submits that the Applicant's titles were not valid as neither her nor her late husband engaged the Respondents to sign the transfer documents a fresh as administratrix of the estate of Kanchoi Kamiti therefore their validity was extinguished by effluxion of time. Counsel Proceeded to submit that the various parcels of the subdivided land had already been sold for value to innocent third parties and this extinguishes the Applicant's rights to such parcels of land. Counsel offered the case of **Monica Wangui Kimani & Anor –VS- Josphat Mburu Wainaina[2015] eKLR** in support of this position.

43. Counsel further submitted that the Respondents have already completed the Administration of the entire estate of Kanchoi Kamiti and many parcels sold to third parties and there is therefore nothing else left to administer under the grant and that the court is therefore being engaged in an academic exercise.

Determination

44. I take note that the parties recorded a consent on 5th November 2011 before Dulu J as follows;

“By consent the order of status quo obtaining be extended and prayer 4 and 7 in the Application dated 2/11/2011 be and is hereby granted.”

45. I have considered the law and the submissions. The issue that arises for determination is whether there was concealment of material facts in obtaining the grant of Letters of Administration issued to the respondent Seneto Kanchoi Kamiti, Nambulu Kanchoi Kimiti and Siyama Kanchoi Kimiti.

46. There is abundant evidence on record to show that the respondent obtained the Grant of Letters of Administration Intestate in relation to the estate of Kanchoi Kimiti alias Kanchoi Kimiti through fraud and false misrepresentation of facts. The Respondent failed to disclose that the subject asset in dispute had been sold to Karugu Guandai alias Peter Karugu Guandai and therefore to this effect, the parcels of land known as KAJIADO/KITENGELA/2355 and KAJIADO/KITENGELA/2356 were not available for distribution as part of the estate of the deceased. The Applicant herein produced evidentiary documents in support of the transaction and ownership of the subject assets. The Applicant produced copies of the title deed, the agreement for sale, a copy of the cheque of the initial deposit of the sale price, the application for consent, the letter of consent and several agreements acknowledging receipt of the balance of the purchase price. This bundle of documents were marked MNM 2.

47. I have keenly scrutinized this matter and I find that there are glaring gaps, inconsistencies and untruths that have not been told by the Respondents and this amounts to misrepresentation or concealment of facts. First and foremost, it is doubted whether the Respondents disclosed or rather listed the entire estate of the deceased or whether they only disclosed these two parcels of land just because they had an interest in them and whether this was deliberately done to the detriment of the Applicant. Why do I say this? In the petition for Grant of Letters of Administration being cause No.1007 of 2009 that was published in the Kenya Gazette vide Gazette Notice No.13863 of 24th December 2009, and The Grant that was issued on 5th February 2010 and confirmed on the 2nd December 2010, It is categorically stated that the deceased was domiciled in Iloaariak farm, Sultan Hamud. Additionally, his address was

recorded as P O BOX 70, Sultan Hamud. The Respondents have not dared to disclose to this court where they are living at the moment or where they have been living since and have not dared to comment anything about the farm in Sultan Hamud.

48. Secondly, immediately after the sale of the two property KAJIADO/KITENGELA/2355 and KAJIADO/KITENGELA/ 2356, the Applicant herein together with the deceased husband took possession of the land and they enjoyed quiet possession until three months after the demise of the Applicant's husband. This only adds to prove that the deceased and the Respondents were therefore not living anywhere near the land and that they were probably living in the deceased's farm in Sultan Hamud where he died. This again only adds to prove the fact that the Respondents obtained the grant of letters of Administration fraudulently by failing to disclose ALL the assets of the deceased and secondly by listing property which they very well knew that it was not part of the deceased's estate as the deceased had already sold it to the Applicant's deceased husband.

49. I conclude the concerns raised about obtaining the grant through fraudulent means are legitimate. There is therefore merit in the application dated 2nd November 2011. I am persuaded that there is prima facie evidence to prove fraud and misrepresentation and I am moved to review the orders of confirmation of the grant made on 5th February 2010.

50. There is need to interrogate further this title, to this land to ascertain at which stage the transfer was made to the estate of the deceased husband where the certificate of title is alleged to have been acquired illegally or unprocedurally. The applicant and the respondents are counter claiming legal interest in respect of KJD/KITENGELA/2355 and 2356 that the said land suit was also a subject of civil proceedings in Kajiado Chief Magistrate Court Civil Misc. No. 2 of 2014. The reading of this summons for revocation reveals that the applicant claims title to the same suit land which was a subject of distribution for the benefit of the beneficiaries and dependants to the Estate of Kanchoi Kimiti alias Kanchoi Kimiti.

51. It is essential at this juncture both the applicant and respondent to sort out the issue of title to land before Environment and Land Court. As for this succession court there exist sufficient grounds to revoke the letters of administration granted and subsequently confirmation proceedings of the deceased estate to the respondents to await the determination of indefeasibility of title KJD/KITENGELA/2335 and 2336.

52. This being the case, the grant of letters of administration to the estate of Kanchaoi Kimiti alias Kanchoi Kimiti issued to respondent Seneto Kanchaoi Kamiti, Nambulu Kanchaoi Kimiti and Siyama Kanchaoi Kimiti on 5th February 2011 is hereby revoked.

53. Orders 8, 9 and 10 of the Application dated 2nd November 2011 are granted.

54. That this being a family matter there shall be no order as to costs.

55. It is so ordered.

Dated, delivered and signed in open court at Kajiado this 6th day of February, 2017.

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R. NYAKUNDI

JUDGE

Representation:

Mr. Sankale for the respondent – present

Ms. Mary Njeri Mburu - the applicant – present

Mr. Mateli Court Assistant