



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
SUCCESSION CAUSE NO.2716 OF 1999
IN THE MATTER OF THE ESTATE OF CHEGE MACHARIA
CHEGE ALIAS CHEGE MANYANGI (DECEASED)

JUDGMENT

The Applicant/Administrator, Miriam Wangui Chege, widow of the deceased obtained a grant of letters of administration intestate on 23rd May 2000. The Grant was confirmed on 26th July 2011 and rectified on 19th December 2011.

The Applicant filed an application on 13th April 2017 seeking revocation of the grant and a fresh grant to be issued and a fresh certificate of confirmation of grant issued.

The application was served to all beneficiaries; the 12 children of the deceased and herself as stated by the Chief's letter of 9th May 2016.

The sons of the deceased were served with notice to attend court today as per the Affidavit of Service filed on 22nd May 2017, but they did not attend court. On the other hand, the daughter of the deceased and the Applicant/Administrator were in court today and consented to the redistribution of the deceased's estate.

The Applicant/Administrator Miriam Wangechi Chege; widow of the Deceased testified on oath that pursuant to the confirmed grant of 26th July 2011, the sons of the deceased namely;

- **Nelson Macharia Chege,**
- **Daniel Macharia Chege,**
- **Joseph Irera Chege,**
- **Peter Mungai Chege,**
- **Peter Maina Chege and**
- **Leonard Kimani Chege**

Jointly sold the suit property, L.R. LOC 9/ Ichichi/439 of 4.7 acres and they misled her. She signed documents with thumb print after which Equity Bank informed her that the account had deposits of 2.6 million Kenya shillings and the amount was for the sale of land which her sons withdrew and spent among themselves. The widow and daughters of the deceased did not benefit from or retain any money

from the proceeds of the sale of the suit property.

Therefore although her daughters are married she has decided that the remaining property L.R. Nya/S.Kinangop/330 of 7 acres shall be distributed equally among all 12 children; each 0.5 acres and she shall retain the balance. The daughters who were in court were:

- **Flidah Wangui Muhika,**
- **Jane Nyambura Githubi,**
- **Monicah Wanjiku Kuria,**
- **Sporah Mwihaki Gachuhi,**
- **Rahab Wairimu Chege and**
- **Naomi Wambui Chege.**

Therefore the Grant issued to the Applicant/Administrator, Miriam Wangechi Chege shall be rectified and amended under **Section 74 of the Law of Succession Act CAP 160** and **Rule 43 of the Probate and Administration Rules** on redistribution of the Deceased's estate.

This is not a matter for revocation of grant **under Section 76 of the Law of Succession Act CAP 160** as the grant was rightfully issued to the Applicant/widow and administrator to the estate of the deceased and she has not engaged in fraud or concealment of material facts. This is about the distribution of the estate as per the confirmed grant of 26th July, 2011 of the proposed distribution to all beneficiaries of the estate as per the Applicant's testimony in court and in the Application of 13th April 2017.

The rectification shall be without written or verbal consents of the sons of the Deceased because in spite of service as per the Affidavit of Service of 22nd May 2017 they did not attend court or give any reasons for the Court to consider.

The suit property, L.R. Nya/S.Kinangop/330 shall be subdivided among the twelve children of the deceased equally with 0.5 acres each and the widow/administrator shall retain 1.85 acres.

DATED DELIVERED & SIGNED IN OPEN COURT ON 9TH JUNE, 2017.

M.W.MUIGAI

JUDGE