

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

SUCCESSION CAUSE NO. 1023 OF 1996

IN THE MATTER OF THE ESTATE OF SAMUEL MBOGO (DECEASED)

R U L I N G

1. On 27th June 2006, Rawal J. recorded an order by consent whose effect was to revoke the grant issued in Murang'a SRMCSC No. 72 of 1994 as well as the certificate issued following the confirmation of the said grant. A fresh grant was ordered to be issued to Rahab Wanjiru Mbogo and Simon Ndichu Njoroge.

2. One of the new administrators came back to court in an application dated 5th December 2012 seeking orders that could give effect to the consent order of 27th June 2006. The said application was allowed, whereupon the said administrator asked the court for further directions on the way forward.

3. The matter of the estate of the deceased was initiated at the Murang'a court, and came to the High Court for the revocation of the grant. The substantive cause in respect of the estate should still be the property of the Murang'a court. This court did not take it over. Once the revocation application was determined the lower court's file ought to have been returned to that court for final disposal.

4. Administrators were appointed in the order of 27th June 2006. A grant of letters of administration intestate should have issued to them out of Murang'a SRMCSC No. 72 of 1994. Upon the fresh grant being made the administrators should have proceeded to apply afresh for confirmation of grant but being mindful of the order by Rawal J. that the issue of the deceased holding Loc. 16/Mbugiti/1008 in trust for the objector and his siblings be determined prior to the confirmation of the fresh grant.

5. To facilitate the implementation of the order made by Rawal J. on 27th June 2006, I do hereby make the following orders-

a. That the court file in respect of Murang'a SRMCSC No. 72 of 1994 shall be returned to the Chief Magistrate's Court at Murang'a for final disposal of the matter in terms of paragraph 4 above; and

b. That the instant file in HCSC No. 1023 of 1996 shall be transferred to the Probate and Administration Registry of the High Court at Murang'a for further directions or orders, as may be appropriate.

DATED, SIGNED and DELIVERED at NAIROBI this 5TH DAY OF FEBRUARY, 2016.

W MUSYOKA

JUDGE

In the presence ofadvocate for the applicant.