



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MURANG'A**

**CIVIL APPEAL NO 253 OF 2013**

**(FORMERLY NAIROBI HC CIVIL APPEAL NO 48 OF 2013)**

**TERESA MWELU MUINDI.....APPELLANT**

**VERSUS**

**WAMBUA MUINDI .....RESPONDENT**

**RULING**

1. The appeal pending herein is against an order of distribution of the estate of **Rebecca Ndunge Kameri, Deceased** made on 15/07/2013 in confirmation of grant in **Thika CM Succession Cause No 316 of 2008**. The parties are siblings and are among the children (and apparently the only dependents) of the Deceased.
2. This ruling concerns the **chamber summons dated 14/08/2013** by the Appellant in which she seeks the main order of stay of execution of the aforesaid order of distribution pending disposal of the appeal. The application has been opposed by the Respondent (**grounds of opposition filed on 13/09/2013**) and **replying affidavit filed on 16/09/2013**.
3. By an order entered on 24/09/2014 the parties were directed to maintain the *status quo*. The appeal was also by the same order transferred from the High Court at Nairobi to this court.
4. On 07/04/2014 it was ordered that the application be canvassed by way of written submissions. The Respondent filed his submissions on 23/10/2013 before the Appellant filed hers on 21/08/2014. The Respondent filed further written submissions on 12/09/2014. I have considered those submissions. I have also read the supporting and replying affidavits.
5. The competence of the appeal has not been challenged in any serious manner. I have not read any submission to the effect that the appeal is not properly before the court.
6. The appeal challenges an order of distribution of the Deceased's estate made in confirmation of grant. The identification of the persons beneficially entitled to a deceased's estate, and determination of their respective shares, is the whole purpose of succession proceedings. That is done when the court deals with an application to confirm grant. It appears that the Appellant opposed the application to confirm the grant by filing an affidavit of protest. There must therefore have followed a hearing before the lower court leading to the order of distribution now challenged in this appeal.
7. This is thus a serious appeal, and I am satisfied that the same may be rendered nugatory if the challenged order of distribution is effectuated. I therefore have no hesitation in granting the stay sought, the same to remain in place until the appeal is disposed of. However, the Appellant must take appropriate steps to ensure that the appeal is heard without undue delay. In this connection I give parties liberty to apply. It is so ordered. Costs will be in the appeal.

**DATED AND SIGNED AT MURANG'A THIS 4<sup>TH</sup> DAY OF FEBRUARY 2016**

**H P G WAWERU**

**JUDGE**

**DELIVERED AT MURANG'A THIS 12<sup>TH</sup> DAY OF FEBRUARY 2016**