



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

PROBATE AND ADMINISTRATION DIVISION

SUCCESSION CAUSE NO. 1578 OF 2012

IN THE MATTER OF THE ESTATE OF SAMUEL NGUGI WATA (DECEASED)

JOYCE WAIRIMU NGUGI1ST APPLICANT/ADMINISTRATOR

ANNASTASIAH NJERI MUKUHA2ND APPLICANT/ADMINISTRATOR

VERSUS

PAUL NDUNGU NGUGIRESPONDENT/BENEFICIARY

RULING

1. Samuel Ngugi Wata the Deceased to whose Estate this proceedings relates died on 19th March 2007 while domiciled at Waithaka in Nairobi. He was survived by ten children. By mutual agreement of the survivors they appointed four from their midst to file for the Letters of Administration Intestate with regard to his Estate being Joyce Wairimu Ngugi, Milkah Gathoni Mbuku, Paul Ndungu Ngugi and Anastasia Njeri Mukuha.
2. Paul Ndungu Ngugi became uncooperative whereupon a citation was taken out against him. Joyce Wairimu Ngugi, Milkah Gathoni Mbuku and Anastasia Njeri Mukuha subsequently petitioned for the Letters Administration of the Estate of the Deceased on their own. The Grant of Letters of Administration Intestate of the Estate of Samuel Ngugi Wata was issued to them on 16th July 2013. The grant was confirmed to Joyce Wairimu Ngugi and Anastasia Njeri vide Certificate of Confirmation dated 15th October 2014 since Milkah Gathoni Mbuku had since deceased.
3. Consent as to the mode of distribution of the sole asset of the Estate being **Dagoretti/Waithaka/591** measuring approximately 0.29 Ha (zero Decimal two nine Hactares), was signed on 19th September 2014 by all the beneficiaries except Paul Ndungu Ngugi.
4. By summons dated 16th December 2014 the two Administrators have now come to court to seek orders that the Inhibitions, Cautions and/or Restrictions registered against the parcel of land known as **Dagoretti/Waithaka/591** by the Respondent, Paul Ndungu Ngugi on 3rd April 1996, claiming beneficial interest be lifted, vacated removed and/or raised forthwith.
5. In the supporting affidavit sworn on 16th December 2014 Joyce Wairimu deponed inter alia, that upon confirmation of the Grant the Administrators forwarded the necessary transfer forms to the lands office to effect the subdivision of the suit land with a view to distributing the Estate

they came to learn that the Respondent had registered a caution against the said suit land claiming a beneficial interest. That all efforts to prevail upon him to remove the caution came to nought, provoking this application.

6. The Applicants/Adminstratrix also filed a summons on 16th January 2015 seeking orders that the Officer Commanding Station, (O.C.S) Satellite Police Station, the District Officer Waithaka Division and/or Chief Waithaka location do provide security during the subdivision of the said suit land.

7. In the supporting affidavit the Applicants deponed that the Respondent did not respond to the citation which was served upon him and indeed the record bears this out. That he was also served with the summons dated 16th December 2015 as is evinced by the affidavit of service dated 14th January 2015, but he neither filed a response thereto nor did he attend court on the hearing date to state the beneficial interest referred to, as the reason for registering a caution against the suit land.

8. That being the matrix of this cause, I find that there is no valid reason to leave the caveat in place. In the premise I order that:

1) The Inhibition, Caution and/or Restriction registered against the piece of land known as **Dagoretti/Waithaka/591**, by the Respondent (Paul Ndungu Ngugi) on 3rd April 1996 claiming beneficial interest therein hereby lifted, vacated, removed and/or raised by this court forthwith.

2) The officer Commanding Police Station, (OCS) Satellite Police Station, the District Officer (D.O.) Waithaka Division and or the Chief Waithaka Location to provide security during the subdivision of the land in respect of parcel of land known as **Dagoretti/Waithaka/591** for purposes of distributing the Estate of the Deceased.

Costs be in the cause.

It is so ordered.

SIGNED DATED and **DELIVERED** in open court this **9th day** of **February 2015**.

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L. A. ACHODE

JUDGE