



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

SUCCESSION CAUSE NO 204 OF 2013

IN THE MATTER OF THE ESTATE OF DAVID NJOGU KARANJA *alias* NJUKU KARANJA -  
DECEASED

DANIEL NG'ANG'A NJUKU.....APPLICANT

VERSUS

SIMON KINUTHIA MURANGU.....RESPONDENT

RULING

1. The Applicant herein, DANIEL NG'ANG'A NJUKU, sought by summons dated 26/2/2013 revocation of grant issued to BEATRICE WAKII NJUKU on 19<sup>th</sup> February 2009 in *Thika CM Succession Cause No 181 of 2008* in respect to the estate of the Deceased herein. By the Certificate of Confirmation of Grant issued therein, land parcel LR RUIRU/KIU/BLOCK/6/1133 was to be shared equally by DAVID NJUKU KARANJA and SIMON KINUTHIA MURANGU. The said summons for revocation of grant is pending disposal.

2. Simultaneously with the summons for revocation of grant the Applicant filed **another summons, also dated 26/02/2013**, which sought various prohibitory orders and injunctive reliefs. That summons is the subject of this ruling. The summons was filed against SIMON KINUTHIA MURANGU against whom the injunctive orders are sought. The prohibitory orders are sought against title LR RUIRU/KIU/BLOCK 6/1133. As already noted, the summons for revocation of grant is directed against Beatrice Wakii Njuku and not against Simon Kinuthia Murangu.

3. Simon Kinuthia Murangu has opposed the summons for prohibitory orders and injunctive reliefs by his **replying affidavit sworn on 9<sup>th</sup> and filed on 10<sup>th</sup> December 2013**. In that affidavit he states, *inter alia*, that Beatrice Wakii Njuku was his mother (deceased), and was the Administrator of the Deceased's estate herein vide the Thika succession cause. He has not stated when Beatrice died, whether it was before or after the filing of the summons at hand.

4. By an order of 21/03/2014 the court (Ngaah, J) directed that the summons seeking prohibitory orders and injunctive reliefs be disposed of by way of written submissions. Both parties were represented by counsel. The Respondent filed his submissions on 13/05/2014. When the matter came up for mention before me on 11/06/2015 learned counsel for the Respondent stated that he has not been served with any submissions filed by the Applicant. I have perused the court record; I have not found any submissions filed by or on behalf of the Applicant.

5. Without any submissions by the Applicant, I consider that the application has not been prosecuted and is liable to be dismissed for want of prosecution. Nevertheless I have read the supporting and replying affidavits. As already noted, the Respondent in this particular summons was not the Administrator and holder of the grant that is sought to be revoked by the main summons for revocation. Furthermore, the Administrator, Beatrice, appears to be already deceased, and as things are now the summons for revocation cannot proceed. The prohibitory orders and injunctive reliefs are sought pending disposal of the summons for revocation.

6. In all these circumstances I must refuse the summons dated 26/02/2013 seeking prohibitory orders and injunctive reliefs. It is dismissed with costs to the Respondent. The interim orders granted on

27/02/2013, and which have been extended from time to time, are hereby vacated. It is so ordered.

**DATED, SIGNED AT MURANG'A THIS 9<sup>TH</sup> DAY OF JULY 2015**

**H P G WAWERU**

**JUDGE**

**DELIVERED AT MURANG'A THIS 10TH DAY OF JULY 2015**