



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 2521 OF 2012

IN THE MATTER OF THE ESTATE OF CHARLES MUNGAI NGURE (DECEASED)

RULING

1. There are two applications for determination dated 9th May 2003 and 20th May 2014 respectively. Both seek the revocation of the grant made on 14th January 2013 to Lucy Njeri Karangu. They raise similar grounds – failure to notify all beneficiaries, making of untrue allegations of fact and concealment of material facts.
2. The application dated 9th May 2003 is brought at the instance of one Alex Kamau Njuguna. He states that he did not sign the requisite consent filed in court by the petitioner and that the national identity details given in the consent form were not his. He accuses the petitioner of forging his signature and national identity card. The applicant in respect of the application in question alleges to be a son of the deceased.
3. The application dated 20th May 2014 is by Martin Ngure Mungai. He makes similar allegations against the petitioner. He asserts that he did not sign the consent filed in court in support of the petition and says that the details of the national identity card cited in the petition do not match his. He accuses the administrator of forging his signature and his national identity card. He further accuses her of disposing of estate assets.
4. There was service on 20th March 2014 of the application dated 9th May 2013, according to the affidavit of service sworn on 25th March 2014 and filed herein on 3rd April 2014. There is no record of the petitioner's response to the said application.
5. I directed on 25th June 2014, in the presence of counsel for both parties, that the two applications be disposed of by way of written submissions. The parties complied with the directions by filing their respective submissions.
6. The deceased herein passed away on 14th April 2012. Representation to his estate was sought in this cause by a petition lodged herein on 19th October 2012 by Lucy Njeri Karangu, in her capacity as widow of the deceased. In her affidavit sworn in support of the petition, she listed the survivors of the deceased as Ann Njeri Chege (widow), Wangare (deceased widow), Martin Ngure Mungai, Alex Kamau Njuguna and Francis Mungai Ngure. The deceased was expressed to have had died possessed of the property set out in the affidavit in support of the petition.
7. Several documents were lodged together with the petition. There is a letter from the Assistant Chief of Kimururi Sub-Location, Makuyu, where the deceased hailed from, indicating that he had married three times – to Lucy Njeri Karangu, Ann Njeri Chege and a Wangare. He had three children – Alex

Kamau Njuguna, born of Wangare (deceased); Martin Ngure Mungai, born of Lucy Njeri Karangu; and Francis Mungai Ngure, born of Ann Njeri Chege. In Form 38 Anne Njeri Chege, Martin Ngure Mungai, Alex Kamau Njuguna are said to have had signed a consent allowing the petitioner to apply for representation. There is also a letter from Annie Njeri Chege dated 24th September 2012 raising no objection to the petitioner's petition.

8. A grant of representation being letters of administration intestate was made to the petitioner on 14th January 2013. It has not been confirmed.

9. The petitioner, who I shall hereinafter refer to as the administrator, has not responded to the applications for revocation of grant and therefore the same are not opposed and the allegations made in them are uncontroverted.

10. The applicants complain that they were neither consulted by the administrator before she applied for administration. They assert that the consent document on record in Form 38 is not true, for they did not sign it neither are the national identity cards numbers against their names theirs. They dismiss it as a forgery. I note that one of the applicants is actually a son of the administrator, Lucy Njeri Karangu.

11. As the allegation that the document was false and bore signatures of persons who did not sign it and has national identity card numbers that do not match those in the cards of the applicants, it is my finding that indeed the said document is false. The information in it was a fraudulent misrepresentation that the applicants had signed the purported consent when infact they had not.

12. Under section 76 of the Law of Succession Act, a grant may be revoked if it was obtained by a defective process or in a process founded on fraud. As fraud and defects have been identified in the process of obtaining the grant before me, I do hold that the same is available for revocation.

13. I note that the deceased had married three (3) times. Each of his three wives has a child each, all who survived the deceased. All three (3) families ought to be represented in the administration.

14. The final orders made in respect of the two applications are as follows:-

(a) That the grant of representation intestate made herein on 14th January 2013 to Lucy Njeri Karangu in respect of the estate of Charles Mungai Ngure is hereby revoked;

(b) That new administrators should be appointed where each of the three (3) houses of the deceased shall be represented;

(c) That the three (3) houses shall each pick a nominee for appointment as administrator;

(d) That the matter shall be mentioned after thirty (30) days for the court to receive the names of the persons nominated under (c) above; and

(e) That each party shall bear their own costs.

DATED, SIGNED and DELIVERED at NAIROBI this 9TH DAY OF OCTOBER, 2015.

W. MUSYOKA

JUDGE