

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 1574 OF 1992

IN THE MATTER OF THE ESTATE OF MARY WANJIRU KURIA (DECEASED)

RULING

1. The Summons dated 21st July 2014 invites me to review the orders I made on 25th April 2014 and make a finding that Plot No. 47A Ongata Rongai, also known as Plot No. 47B Ongata Rongai, did not form part of the estate of the deceased.
2. Applications for review are governed by the relevant provisions of the Civil Procedure Rules, which have been imported into probate practice by Rule 63 of the Probate and Administration Rules. I note that the application of 21st July 2014 is anchored on Rule 63 of the Probate and Administration Rules.
3. Review could be allowed where there is an error on the face of the record, discovery of a new and important matter of evidence that was not available at the time the impugned order was made or for any other sufficient reason.
4. The application is grounded on the allegation that there was an error on the face of the record. I have carefully gone through the affidavit sworn on 21st July 2014 and noted that no such error is identified. The applicant merely asserts that the subject property was jointly owned between him and the deceased, and therefore it does not form part of the estate of the deceased. He does not explain why that should be so, but I suspect that he is relying on the principle of survivorship or *jus accrescendi*.
5. I dealt with the issue of the alleged joint ownership in paragraphs 8, 9 and 10 of my ruling of 25th April 2014. I concluded that there was no joint ownership as alleged by the applicant, and I gave my reasons in paragraph 10 of the said ruling.
6. I see nothing new in the application dated 21st July 2014 that would require me to depart from the position I took in the ruling of 25th April 2014. The application is unmerited. I hereby dismiss the summons. As it was not opposed I will not make any orders on costs.

DATED, SIGNED and DELIVERED at NAIROBI this 2ND DAY OF OCTOBER, 2015.

W. MUSYOKA

JUDGE