



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
CIVIL CASE NO. 243 OF 2014
FORMERLY EMBU NO. 24 OF 1994

IN THE MATTER OF THE ESTATE OF THE LATE M'KIENDE KAVIRO

MIRIAMU NJOKA NJERU.....APPLICANT

VERSUS

JOHNSTONE NJERU MURINGIHRESPONDENT

RULING

1. This is an application for the revocation (or annulment) of the grant issued to the respondent on 30th September, 1993. The application is brought under section 76 of the Succession Act (Cap 160 Laws of Kenya) and rules 44, 49 and 73 of the Probate Administration Rules.
2. According to the applicant, the respondent who is the administrator of the estate of the late M'Kiende Kariro, fraudulently obtained the grant from the High Court in succession cause No. 24 of 1994. Additionally, the grant was obtained by concealing from the court material facts from the court. It is for these reasons, amongst others, that the revocation of the grant is being sought.
3. The applicant adopted her witness statement as her evidence in addition to her affidavit in support of summons from revocation of the grant.
4. It is the applicant's affidavit evidence that the respondent secretly filed succession cause No. 24 of 1994 in the High Court and was thereafter granted letters of administration. According to the application no notices or citations were issued to her as required under rule 2, of the Probate and Administration Rules.
5. Furthermore, she states that she was left out as a beneficiary and was not given any share of the estate of their father.
6. In her written statement evidence, the applicant has stated that the respondent is her son. She also adds that she and her two sons including the respondent lived on land parcel No. Kyeni/Kigumu/840. According to her the deceased had indicated that his land was to be shared equally between his two sons.
7. Finally, it is her evidence that the respondent did not follow procedure of obtaining the grant of letters of administration. For instance, the respondent did not obtain consent from his father and siblings as required.
8. The evidence of the applicant was not challenged. The respondent failed to turn up for the hearing of the case although the hearing date was taken by consent of the parties.
9. I have considered the evidence of the applicant and the rival submissions of both counsel. I find that the respondent did not follow the procedure in obtaining the grant from this court. He failed to obtain the consent from his father and siblings by the obtainment process. He also left out the applicant in the distribution of the estate. In short he obtained the grant secretly and again to the detriment of the applicant.

10. In the light of the foregoing, I find that the applicant is entitled to the orders sought. I therefore revoke the grant with no order as to costs.

RULING DATED, SIGNED and DELIVERED in open court at **EMBU** this **4th** day of **NOVEMBER .2015**

In the presence of both counsel and in the presence of the applicant and respondent.

Court clerk Nyaga

J.M. BWONWONGA

JUDGE

04.11.15