



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI MILIMANI LAW COURTS**  
**FAMILY DIVISION**

**MISC. APPL. NO. 7 OF 2012**

**IN THE MATTER OF THE TERESIA NYAMBURA KANGETHE alias NYAMBURA  
KANGETHE KIHKA DECEASED)**

**MARY WANJIRU KANGETHE.....APPLICANT**

**VERSUS**

**JOHN GICHAGA KANGETHE.....1<sup>ST</sup> RESPONDENT**

**PETER KIHKA KANGETHE.....2<sup>ND</sup> RESPONDENT**

**RULING**

1. The deceased TERESIA NYAMBURA KANG'ETHE alias NYAMBURA KANG'ETHE KIHKA died intestate on 23<sup>rd</sup> October 2009. Her estate comprised land parcel No. LIMURU/BIBIRIONI/3725. The respondents went to the Chief Magistrate's Court at Kiambu in *Succession Cause No. 111 of 2011* and obtained a grant which was confirmed on 7<sup>th</sup> September 2011. In the grant, the 1<sup>st</sup> and 2<sup>nd</sup> respondents got 0.040Ha each, the applicant got 0.093Ha, NANCY WAMBUI NJUGUNA got 0.093Ha and PETER MBUGUA NG'ANG'A got 0.093Ha. The applicant came to this court on 5<sup>th</sup> January 2012 seeking the revocation of that grant. The respondents opposed the application. Counsel were asked to file written submissions on the application which they did.

2. The sworn evidence by the applicant (who is one of the daughters of the deceased) was that her consent was not sought before the grant was confirmed. Further she was not made aware that the matter was coming for confirmation. The evidence was not challenged. She was a beneficiary to the estate who was required to participate in the decision regarding confirmation of the grant. The decision regarding the number of beneficiaries and their respective shares was going to affect her and she needed to be involved.

3. Secondly, she stated that NANCY WAMBUI NJUGUNA and PETER MBUGUA NG'ANG'A were strangers to the estate and yet they had been given part of it to her detriment. The 2<sup>nd</sup> respondent swore an affidavit to say that the two bought the respective portions from the deceased during her lifetime; and that the deceased had directed that they get the portions. The matter had proceeded on the basis that it was an intestate succession. If, however, there was such wish then it was imperative to have the applicant attend the hearing of the application for confirmation and make her indication known over the issue.

4. It is for these reasons that I allow the application and revoke the grant that was confirmed and issued on 7<sup>th</sup> September 2011. This will be with costs.

**DATED and DELIVERED at NAIROBI this 14<sup>th</sup> July, 2014**

**A.O. MUCHELULE**

**JUDGE**