



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**SUCCESSION CAUSE NO. 1189 OF 1997**

**IN THE MATTER OF THE ESTATE OF**

**MINEH MUKUHI KANGETHE (DECEASED)**

**WANJIKU KIIHIKA .....APPLICANT**

**RULING**

1. On 2<sup>nd</sup> May 2014 the applicant WANJIKU KIIHIKA filed this application dated 26<sup>th</sup> April 2014 seeking that the name of the deceased MINEH MUKUHI KANGETHE be substituted with that of the deceased KIIHIKA KANGETHE so that the deceased KIIHIKA KANGETHE be the one whose estate this matter relates. After that, a fresh grant of letters of administration be issued concerning the estate of KIIHIKA KANGETHE. Lastly, that the distribution of the estate as per the Amended Certificate of Confirmation of Grant issued on 27<sup>th</sup> November 2013 do remain intact except for the substitution of MINEH MUKUHI KANGETHE (deceased) with KIIHIKA KANGETHE (deceased) of the person whose estate the matter relates.

2. The application was opposed by KARIUKI KANGETHE who filed an affidavit on 21<sup>st</sup> July 2014.

3. This cause was filed on 11<sup>th</sup> June 1997 regarding the estate of MINEH MUKUHI KANGETHE by JAMES WAWERU KANGETHE. A grant was issued on 23<sup>rd</sup> September 1997. On 14<sup>th</sup> October 1999 the applicant filed summons for revocation or annulment of the grant. A certificate of confirmation of grant was issued on 11<sup>th</sup> December 1999. On 15<sup>th</sup> January 2002 the certificate was, by consent, ordered to be rectified and land parcel LR. No. LIMURU/BIBIRIONI/1675 distributed as follows:-

- (a) JAMES WAWERU KANGETHE one acre;
- (b) STEPHEN NJOROGE KANGETHE one acre;
- (c) KARIUKI KANGETHE one acre;
- (d) JAMES WAWERU KANGETHE 0.375 acres to hold in trust for himself and STEPHEN NJOROGE KANGETHE and KARIUKI KANGETHE; and
- (e) MBURU KIIHIKO AND WANJIKU KIIHIKA to get 1.125 acres to hold in trust for themselves and KANGETHE KIIHIKA and MUNGAI KIIHIKA, NGUGI KIIHIKA and KARIUKI KIIHIKA and KARANJA KIIHIKA in equal shares.

4. On 8<sup>th</sup> November 2005 the applicant applied to have the consent order reviewed and/or set aside on the basis that the order was recorded without her knowledge and/or instructions. On 21<sup>st</sup> September 2013 the applicant filed an application dated 20<sup>th</sup> September 2012 seeking to appoint her as the administrator of the estate in place of the grantee JAMES WAWERU KANGETHE who was said to have

died on 7<sup>th</sup> April 2010. The application was allowed on 21<sup>st</sup> November 2012. On 31<sup>st</sup> December 2013 the applicant filed an application seeking to have rectified the certificate of confirmation of grant issued on 15<sup>th</sup> January 2002 to have her registered in regard of LR NO. LIMURU/BIBIRIONI/1675 to hold in trust for JACKSON MBURU, ESTHER MUKUHI KIIHIKA, ELIZABETH NJERI KIIHIKA, NAOMI WAIRIMU KIIHIKA, GRACE GATHONI KIIHIKA, JOSEPH KANGETHE KIIHIKA, JAMES KARANJA KIIHIKA, WALLACE KARIUKI KIIHIKA, MUNGAI KIIHIKA and LUCY WAIRIMU KIIHIKA in equal shares. It was allowed on 13<sup>th</sup> June 2013. On 26<sup>th</sup> November 2013 the applicant applied to have the grant issued on 13<sup>th</sup> June 2013 be rectified by substituting L.R. NO. LIMURU/BIBIRIONI 1675 with L.R. NO. LIMURU/BIBIRIONI/3210, 3211, 3212, 3213 and 3214. The application was allowed on 27<sup>th</sup> November 2013. On 2<sup>nd</sup> May 2014 the present application was filed.

5. Throughout this cause, the deceased was MUNEH MUKUHI KANGETHE whose estate was to be inherited. The applicant cannot now seek to have the name of the deceased changed to that of KIIHIKA KANGETHE. If she wants to inherit the estate of KIIHIKA KANGETHE then she has to file a separate Cause. It would also appear that the application to review and/or set aside the consent grant and confirmation made on 15<sup>th</sup> January 2002 has not been disposed of.

6. In short, the present application is misconceived as one Succession Cause cannot be filed or maintained in respect of two deceased persons. I dismiss the application with costs.

**DATED and DELIVERED at NAIROBI this 1<sup>st</sup> October, 2014.**

**A.O. MUCHELULE**

**JUDGE**