



IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NO. 280 OF 2009

IN THE MATTER OF THE ESTATE OF JERUSHA WANJIKU HARI (DECEASED)

LOICE NJERI NDUATI.....1ST APPLICANT

REBECCA WAMBUI.....2RD APPLICANT

VERSUS

SALIM MUREITHI.....RESPONDENT

RULING

The application dated 22/7/2010 was filed by Loice Njoki Nduati and Rebecca Wambui who seek to have the grant issued to Salim Mureithi, the respondent, herein, revoked, for reasons that the same is defective, was obtained fraudulently by concealment from other beneficiaries it is alleged that the respondent failed to administer the estate of the late Jerusha Wanjiku Hari by using the proceeds from rental houses to the exclusion of other beneficiaries.

The summons is based on the affidavit of the applicants sworn on 2/7/2010. Loice Njoki Nduati deponed aht the deceased died on 14/4/09 and letter of administration were issued to Salim Mureithi, the son of the deceased on 25/1/2010. She deponed that the petitioner Salim failed to include Silvia Wanjiku in the application, as one of the beneficiaries and secondly that the petitioner knew that his sister Rebecca Wambui the 2nd applicant is mentally challenged and yet he did not include a 2nd administrator to administer the estate jointly with him. Loice Njoki so prays to be joined to the proceedings as a co-administrator.

Silvia Rebecca Wambui Nduati deponed that she is the daughter of the deceased and has one brother the respondent, Salim. She deponed that Salim never informed her of the succession proceedings herein and that though he named one of her daughters Loice Njoki Nduati as one of the beneficiaries, he left out Julia Wanjiku. She deponed that both her and her daughters were provided for by the deceased. Sylvia Rebecca further deponed that she now lives with her aunt, Loice Njoki Nduati whom she would like to be joined as one of the administrators.

The petitioner's counsel Rubua Ngure was served with the hearing notice on 25/11/2010 but he neither filed a reply nor did he appear. The application is therefore unopposed. The facts deponed to in the affidavits of the two applicants are not contested. Since it is deponed that Silvia Rebecca is mentally challenged and her children are minors, it is a requirement that there be two administrators of the estate. The petitioner should have included another person to take care of the interests of Rebecca and her

minor children. It is also not denied that one of the beneficiaries was left out, there is need to have her included so that when distribution is done her interests are catered for.

Although there is no specific prayer for joinder of another administrator, for the ends of justice to be met, I will allow Loice Njoki Nduati to be joined as a co-administrator. I decline to include Rebecca Wambui as administrator as she is said to be of unsound mind. I also direct that Julia Wanjiku be listed as one of the beneficiaries. Costs be in the cause.

DATED and DELIVERED this 4th day of March, 2011.

R.P.V. WENDOH
JUDGE

PRESENT:

MS Njoroge for the applicants.

N/A for the respondent.

Kennedy – Court Clerk.