



REPUBLIC OF KENYA



In re Estate of Mugendi Runguma (Miscellaneous Succession Cause E007 of 2023) [2024] KEHC 373 (KLR) (25 January 2024) (Ruling)

Neutral citation: [2024] KEHC 373 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
MISCELLANEOUS SUCCESSION CAUSE E007 OF 2023
LW GITARI, J
JANUARY 25, 2024
IN THE MATTER OF THE ESTATE OF MUGENDI RUNGUMA**

BETWEEN

PENASIA CIAMWONGE RAINI APPLICANT

AND

PETER JAMLICK LAINI RESPONDENT

RULING

1. Before this Court is the Summons for Revocation of Grant application dated 19th July, 2023. The Application is expressed to be brought under the provisions of Section 76(a), (b), (c) and Section 48 of the [Law of Succession Act](#) and Rules 44 and 73 of the [Probate and Administration Rules](#).
2. The Application seeks for the following orders (reproduced verbatim):
 - a. Spent.
 - b. Spent.
 - c. Spent.
 - d. Spent.
 - e. That this Honourable be pleased to declare that the purported grant registered to the Land Office is a registry.
 - f. That all the subsequent transaction that were transacted after the purported grant was registered in relation to the estate of the deceased LR Karingani/Ndagani/140 be declared is a forgery and cancelled and the title to revert back to the name of the deceased Mugendi Runguma.



- g. That the orders issued be served upon the Land Registrar Tharaka Nithi County for compliance.
 - h. Costs to be provided for.
3. The Application is premised on the grounds on the face of it which are as follows:
- a. That the succession suit on behalf of the estate of my late father was never filed at any court of law at all.
 - b. That the purported grant registered in the Land Registry is a forgery.
 - c. That the purported grant registered in the Land Registry vide Meru High Court Succession Cause No. 18 of 1998 is totally different from the document produced in the said purported succession.
 - d. That the estate of the deceased was obtained by means of untrue allegations of facts essential in point of law the just that grant.

It is supported by the affidavit sworn by the applicant on 19th July, 2023. The applicant deposes that these proceedings relate to the estate of her late father who died intestate on 6th April, 1974 at the age of 72 years. That applicant is the only surviving dependant of her late father and that the respondent herein is her son.

- 4. The applicant further deposes that the respondent, in collusion with the applicant's husband, misrepresented themselves and forged a court document purporting to be a grant and used it to transfer the estate of the deceased to their names. That subsequently, the applicant came to find out that succession proceedings in respect of the estate of her father were instituted in Meru High Court by the respondent in 1998 and that the deceased's estate has since been distributed to strangers who are not beneficiaries of the said estate.
- 5. According to the applicant, she followed up on the proceedings in the purported Meru Succession Cause No. 18 of 1998 and found out that purported grant that was allegedly used by the respondent at the land registry was forged.
- 6. It is thus the applicant's prayer that this Court declares that the purported grant registered in the lands office in relation to the estate of the deceased, that is, L.R. No. Karingani/Ndagani/140, was a forgery, cancel all titles and resultant sub-division in respect of L.R. No. Karingani/Ndagani/140 and that the said land revert back to the estate of the deceased, Mugendi Runguma.

Analysis

- 7. The applicant called upon this Court to recall the file for Meru Succession Cause No. 18 of 1998 from Meru High Court to Chuka High Court for purposes of comparing the documents to ascertain the averment made by the applicant. The said file has been brought before this Court and I can confirm that the proceedings therein are in relation to a different estate, that is, the Estate of M'Muketha M'Ananga (deceased) who died on 30th July, 1990 and who estate comprised of L.R. No. Njia/Buri-E-Ruri/1287.
- 8. That said, the present application seeks the revocation of a grant that was purportedly forged and used by the respondent to distribute the estate of Mugendi Runguma. From the grounds of the application, the applicant states that there is no succession suit that has ever been filed before any court of law in respect to the estate of the late Mugendi Runguma. This means that even the applicant has not instituted any proceedings in relation to the said estate of her late father. In the circumstances, the



applicant also lacks locus standi to deal with the estate of the deceased at this stage. In any case, this Court cannot revoke a grant that is non-existent in the first place.

9. I also note that the grant issued in Meru Succession Cause has other parties who may be affected by orders of this court and they were not served. No orders can be issued in respect of that succession as it would violate the rights of those parties to be heard before any adverse orders and be made. Furthermore, vide a ruling dated 15/6/2017 by Lady Justice Anne Ongijo the grant issued in Meru Succession Cause on 9/9/1998 was revoked and annulled. No other grant has been issued in that Succession Cause.
10. As earlier ruled in this court on 31/7/2023, there was no confirmation that the grant was issued in Succession Cause No.18/1998.

In Conclusion:-

The application has no merits as the applicant lacks lucus standi to bring this application.

I order that:-

1. The application is dismissed.
2. The orders issued by this court on 24/7/2023 are set aside.
3. The Meru Succession Cause File No.18/1998 be returned to the Deputy Registrar High Court Meru.
4. This file is closed.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 25TH DAY OF JANUARY, 2024.

L.W. GITARI

JUDGE

