



In re Estate of the Late Manjulaben Arvindbhai Patel (Deceased) (Succession Cause 3378 of 2007) [2024] KEHC 3353 (KLR) (Family) (21 March 2024) (Directions)

Neutral citation: [2024] KEHC 3353 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 3378 OF 2007
HK CHEMITEI, J
MARCH 21, 2024
IN THE MATTER OF THE ESTATE OF THE LATE MANJULABEN
ARVINDBHAI PATEL(DECEASED)

BETWEEN

PARITABEN JITENDERA DEDHIA APPLICANT

AND

ARVINDBHAI HARMANDBHAI PATEL & 3 OTHERS RESPONDENT

AND

AMARJIT CHETAN PUTRA & ANOTHER INTERESTED PARTY

DIRECTIONS

1. The Applicant filed her summons for revocation of grant application amended and dated 13th November 2019. In the said application she is seeking several prayers including revocation of the grant issued to the 1st Respondent as well as cancellation of transfer of land parcel number 1870/503.
2. The gist of the application is that the 1st Respondent illegally and unlawfully transferred the ½ share in the said parcel which belonged to the deceased. She said that the said transfer ought to have been done after the court had issued a valid confirmed grant.
3. In this case the Applicant contents that the Respondent did not care to obtain a grant and simply intermeddle with the estate.
4. The Respondent on his part denied the same arguing that since they were tenants in common with the deceased the law permitted him to do so. That the sale to the Interested party was equally lawful.



5. The court has perused the application, the rival pleadings as well as the submissions by the parties. The court has equally perused the legal arguments and various cited authorities and statutes.
6. This court is of the considered view that the issues herein are not clear and that the affidavit evidence alone is not sufficient. For instance, the court is unable to decipher from the annexures how the land was registered in the names of the deceased and the 1st Respondent.
7. The court is unable also to ascertain how the transfer was effected to the 1st Respondent and subsequently to the Interested party. The documentary evidence ought to be produced in their original form or at least more legible.
8. The court will be doing disservice and for that matter injustice if it proceeds to determine the main issue of conveyancing or transmission without the support and input of the parties.
9. In the premises, and this being the only issue as there is no issue of who is the beneficiaries of the estate this matter ought to proceed by way of viva voce evidence. Let the parties fully testify and produce proper documentations in support of their cases.
10. There will be no prejudice suffered by the parties as the main issue of tenancy between the deceased and the 1st Respondent shall be decided. In any case the purchase by the Interested party has not been disputed.
11. Consequently, this matter is to be set down for hearing, the orders barring any dealings on land parcel number 1870/503 are hereby extended till the matter is determined.

DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 21ST DAY OF MARCH 2024.

H K CHEMITEI

JUDGE

