



**In re Estate of Emily Nduta Ndungu (Deceased) (Succession Cause
128 of 2015) [2022] KEHC 10259 (KLR) (Family) (2 June 2022) (Judgment)**

Neutral citation: [2022] KEHC 10259 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 128 OF 2015
AO MUCHELULE, J
JUNE 2, 2022**

BETWEEN

MARY MUMBI NJOROGE APPLICANT

AND

PETER MUNGAI NDUNGU RESPONDENT

JUDGMENT

1. The deceased Emily Nduta Ndungu died intestate on June 18, 2011. She was the registered proprietor of Karai/Lussigetti/T331 measuring 0.09 Ha. She left her mother Mary Mumbi Njoroge (the applicant) and her step son (son of her husband by another wife) Peter Mungai Ndungu (the respondent).
2. In the application dated January 22, 2015 the applicant sought the revocation of the grant issued to the respondent without her being served with the petition, and by the concealment of material facts. Her case was that, following the death of the deceased she filed succession cause no 105 of 2011 at Kikuyu Principal Magistrate's Court through which she became the absolute owner of the parcel of land. She produced the certificate of confirmation. It showed that the grant had been issued to George Njoroge Mungai. She stated that she proceeded to get the land registered in her name on February 28, 2013 and on March 23, 2013 she was issued with a title deed. She produced the title deed.
3. Subsequently, she found out that the respondent and other people had on January 10, 2013 been registered the proprietors of the land and title issued to them on January 17, 2013.
4. The grant that she asked to be revoked was allegedly issued on July 30, 2013 by the Kiambu Chief Magistrate's Court in succession cause no 264 of 2011. She did not produce the grant or its certificate of confirmation.



5. Further, the copy of greencard that the applicant produced showed that the land was on February 20, 2013 registered in the name of George Njoroge Mungai and her name before it went to the respondent and four other people. She stated that she does not know George Njoroge Mungai, and that the greencard she got at the lands office was a forgery. However, the certificate of confirmation issued in succession no 105 of 2011, which grant she was relying on, was to George Njoroge Mungai. It was through the grant that she inherited the parcel. She swore that she did not know George Njoroge Mungai. Did she petition for the grant at Kikuyu Court as a result of which she got the land?
6. The respondent's response was through grounds of opposition dated June 5, 2018. She claimed therein that the application was scandalous, frivolous and vexatious and an abuse of the process of the court, it was an attempt to re-open a matter that had been concluded; that the applicant was all the time aware of the proceedings leading to the grant; and that none of the grounds of revocation under section 76 of the *Law of Succession Act* (cap 160) had been proved.
7. The court would not revoke a grant that has not been exhibited, and shown to have been issued by the court in question. The applicant did not produce the proceedings, or the grant, in Kiambu Chief Magistrate's Court succession cause no 264 of 2011. Coupled with the fact that she did not know the person who petitioned the Kikuyu Court that led to her getting the title deed she got, I do not think that a basis has been laid for the granting of the prayers in the application.
8. Consequently, I dismiss the application with costs.

DATED AND DELIVERED AT NAIROBI THIS 2ND DAY OF JUNE 2022.

A.O. MUCHELULE

JUDGE

