

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D18005
G/kmg

_____AD3d_____

Argued - January 8, 2008

ROBERT A. LIFSON, J.P.
DAVID S. RITTER
DANIEL D. ANGIOLILLO
EDWARD D. CARNI, JJ.

2005-10777

DECISION & ORDER

In the Matter of Allen Stancil Culbreth,
a/k/a Allen Culbert, deceased.
Malissie J. Culbreth, et al., respondents;
Alice B. Geddie, appellant.

(File No. 1974/04)

Lee M. Nigen & Associates, P.C., Brooklyn, N.Y., for appellant.

Ira M. Kopito, Brooklyn, N.Y., for respondents.

In a proceeding, inter alia, to set aside two deeds for three properties, Alice B. Geddie appeals from an order of the Surrogate's Court, Kings County (Tomei, S.), dated October 14, 2005, which granted that branch of the petitioners' motion which was to strike the defense of lack of personal jurisdiction from the answer, and denied her cross motion to dismiss the proceeding on the grounds of lack of personal jurisdiction and lack of subject matter jurisdiction.

ORDERED that the order is affirmed, with costs.

The Surrogate's Court has subject matter jurisdiction over this proceeding, which seeks to set aside deeds conveying property owned by the decedent prior to his death (*see* NY Const, art VI, § 12[d]; *Matter of Piccione*, 57 NY2d 278).

In addition, the Surrogate properly struck from the answer the defense of lack of

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personal jurisdiction based on improper service of the petition (*see* CPLR 3211[e]).

LIFSON, J.P., RITTER, ANGIOLILLO and CARNI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court