



REPUBLIC OF KENYA

IN THE HIGH COURT

AT KERICHO

SUCCESSION CAUSE NO.220 OF 2014

IN THE MATTER OF THE ESTATE OF KOMINGOI MATEGET *alias* KOMINGOI MATEGET (DECEASED)

ANDREW CHERUIYOT.....1ST PETITIONER

STANLEY CHERUIYOT.....2ND PETITIONER

ANNA C. MATEGET.....3RD PETITIONER

AND

KENNEDY KIPLANGAT KIGEN.....1ST APPLICANT

RICHARD KIPRONO NGENO.....2ND APPLICANT

VERSUS

WILSON KIPLAGAT CHERUIYOT & 14 OTHERS.....OBJECTORS

RULING

1. There are two summons for revocation filed herein which are coming for consideration in this ruling filed on 16/11/2018 and 17/12/2019 respectively.
2. The summons for revocation filed on 16/11/2018 was brought by **KENNEDY KIPLANGAT KIGEN** and **RICHARD KIPRONO NGENO** who are seeking to revoke the grant issued herein on 18/03/2015 to **ANDREW KIPLANGAT CHERUIYOT, ANNAH CHERONO MATEGET & STANLEY KIPKEMOI CHERUIYOT** and confirmed on 14/6/2018 on the basis that they are granted children of the deceased and their names were omitted from the list of beneficiaries.
3. Their mothers **ZEDDY MATEGET (deceased)** and **ELIZABETH LANGAT (deceased)** were daughters of the deceased herein and their names were omitted from the list of beneficiaries.
4. The 1st Applicant in the summons dated 16/11/2018 filed an Affidavit in support of the summons in which he stated that he is the son of one of the beneficiary of the estate and therefore a grandson of the deceased herein **ZABLON KOMINGOI MATEGET (deceased)**.
5. The 2nd summons for revocation dated 17/12/2019 was filed by **WILSON KIPLAGAT CHERUIYOT** and 14 others and is also seeking to revoke the certificate of confirmation issued on 14/6/2018 on the grounds that the proceedings out of which the grant was obtained were defective in substance and that the said grant was obtained fraudulently by making of false statements and concealment to the court of material facts that the objectors are all beneficiaries of the Estate and further that the property should be divided equally as agreed by the beneficiaries.
6. I have considered the submissions filed by the parties. The Applicants in the summons for revocation dated 16/11/2018 are seeking revocation of the confirm grant on the grounds that they are grandchildren of the deceased and that they were left out in the distribution of the Estate.
7. I find that the Petitioner Respondents have conceded the Application dated 16/11/2018 that the beneficiaries of the Estate were left out in the distribution of the Estate.

8. However, the 1st and 3rd Petitioners have stated that the beneficiaries were left due to some inadvertence.

9. I find that the Estate was divided by the Court according to the houses.

10. The Application dated 17/12/2019 is seeking to revoke the grant on the grounds that the family subsequently met and agreed on a different mode of distribution.

11. I find that the Application dated 17/12/2019 is not merited. The same is dismissed with no orders as to costs.

12. However, the Application dated 16/11/2018 is conceded by the 1st and 3rd Petitioners. The solution is not to revoke the grant but to have a summons for rectification filed by the Petitioners so that the beneficiaries who were left out can be catered for in the distribution of the assets of the Estate.

13. I accordingly direct that the Petitioners file a summons for rectification within 30 days of this date to accommodate the beneficiaries who were left out in the distribution of the Estate by the Court.

DELIVERED, SIGNED AND DATED AT KERICHO THIS 29TH DAY OF JANUARY, 2021

A. N. ONGERI

JUDGE