



**REPUBLIC OF KENYA**

**IN THE HIGH COURT**

**AT NAIROBI**

**(FAMILY DIVISION)**

**SUCCESSION CAUSE NO 1844 OF 1998**

**IN THE MATTER OF THE ESTATE OF KITHOME MUTYAUUVYU (DECEASED)**

**DANIEL MATUU KITHOME**

**DAVID KILONZO KITHOME.....ADMINISTRATORS**

**VERSUS**

**MUMBUA KITHOME**

**MUTISYA KITHOME.....OBJECTORS**

**R U L I N G**

1. The application subject of this ruling is dated 21<sup>st</sup> November, 2019 brought by the Objectors pursuant to **Section 3A** and **63(e) of the Civil Procedure Act** and **Rule 73 of the Probate and Administration Rules**.

2. The application seeks to have the order dismissing the application for revocation of grant dated 17<sup>th</sup> May 2017 set aside, on grounds that the Objectors have at all times been ready to prosecute the objection and were absent on the 3<sup>rd</sup> of December 2018 for the reason that the 1<sup>st</sup> Objector was unwell and the Administrators' counsel had communicated to the Objectors' counsel that he would not be available.

3. The application was objected to by the Administrators and the Interested Party on grounds of inordinate delay, the document in support of the application being suspicious and the fact that the Applicants are not acknowledged heirs.

4. Having considered the application, the affidavit in support of the Objectors, the replying affidavit and the matter in its entirety I am convinced that the ends of justice will be met by allowing the application so that the matter may be heard on its merits.

The Application is therefore allowed.

5. The application dated 17<sup>th</sup> May 2017 be fixed for hearing forthwith.

6. Costs in the cause.

**Dated and Delivered in Nairobi on this 20<sup>TH</sup> day of FEBRUARY, 2020.**

**ALI-ARONI**

**JUDGE**