

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT ELDORET

SUCCESSION CAUSE NO. 168 OF 2006

IN THE MATTER OF THE ESTATE OF MARIA KIPTITI (DECEASED)

BETWEEN

BENJAMIN KIRWA LELEI.....APPLICANT

AND

RUTH CHEMELI BETT.....OBJECTOR

RULING

1. The application dated 8th August, 2019 was filed pursuant to Section 74 of the Law of Succession Act and Order 45 of the Civil Procedure Rules. The applicant thereby seeks to correct an error apparent on the face of the record, in that whereas on 4th May, 2019 an order was made for confirmation of Grant, no such Grant appears on the record.

2. A perusal of the court record shows that the Petition for Grant was filed on 14th July, 2006 and that notice thereof was published in the Kenya Gazette on 2nd August, 2006. Thereafter, on 23rd August, 2006, a Notice of Objection was filed herein by the Objector Ruth Chemeli Bett. In the course of time the parties compromised the matter and agreed that the suit property be transmitted to the objector. They then applied for confirmation of Grant, purporting that the Grant was issued on 2.8.2006. Clearly therefore, the order of 4.5.2019 was made in error and therefore warrants a review. The objector has no objection to the Grant being issued in the Petitioner's name.

3. In the circumstances, I would allow the application dated 8th August, 2019, which I hereby do and order that the proceedings of 4th May, 2019 and the order for confirmation of Grant be and are hereby vacated. I direct that a Grant of Letters of Administration Intestate in respect of the deceased, Maria Kiptiti, be issued in the name of the Petitioner, Benjamin Kirwa Lelei.

It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET THIS 9TH DAY OF MARCH 2020

OLGA SEWE

JUDGE