



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BUSIA

PROBATE & ADMINISTRATION NO.429 OF 2013

IN THE MATTER OF THE ESTATE OF: ZADOCK OTIENO OJWANG.....DECEASED

BETWEEN

1. BEATRICE MBOGO OTIENO

2. GRACE PHILLIQUEEN OTIENO....PETITIONERS/ RESPONDENTS

AND

PAUL OMONDI OTIENO.....APPLICANT

RULING

1. Paul Omondi Otieno the applicant herein, moved the court by way of summons for revocation of grant dated 15th July 2015 under section 76 of the Law of succession Act and Rule 73 of Probate and Administration Rules. He is seeking the following orders:

- a. That an order of inhibition be and is hereby issued inhibiting the registration of any dealing in L.R No. South Teso/Angoromo/57 pending the hearing and final determination of this application. (Spent).
- b. That the grant of letters of administration issued herein on 7th May 2014 to Beatrice Mbogo Otieno and Grace Philliqueen Otieno and confirmed on 23rd April 2015 be revoked.
- c. That a fresh grant of letters of administration intestate be issued in the name of Paul Omondi Otieno.
- d. That the costs of this application be provided for.

2., The application is premised on the following grounds:

- a. That the said grant was obtained fraudulently by concealment to the court something material to the cause.
- b. That the petitioners have excluded the rightful beneficiaries to the estate of the deceased from the proceedings herein and are now threatening to dispose of L.R No. South Teso/Angoromo/57 and defeat the claim of the first house.

3. The application was opposed on grounds that:

- a. The applicant the applicant was provided for; and
- b. That no beneficiary was left out.

4. I have perused the record herein and noted that the consent to the making of the grant was signed by twelve beneficiaries. Seven other beneficiaries who include the applicant herein did not sign the consent and were not mentioned at all. In the certificate of confirmation only two beneficiaries were provided for.

5. The applicant's contention is therefore supported by the record.

6. I am therefore revoking the grant that was confirmed on 23rd April 2015. Consequently, the applicant and the petitioners are made co-administrators herein.

7. I am making an order that the co-administrators to file a proposal for distribution either jointly or severally within 30 days of this ruling. Failure to do so, the grant will be automatically revoked.

8. Costs of this application to be borne by the respondents.

DELIVERED and SIGNED at BUSIA this 22nd day of July, 2020

KIARIE WAWERU KIARIE

JUDGE