



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KITALE

SUCCESSION CAUSE NO. 145 OF 2009

IN THE MATTER OF THE ESTATE OF THE LATE MARY NANGILA MULONGO - (DECEASED)

ANNAH OBWOYO MAKOKHA.....1ST RESPONDENT

ROSE MUNIALO.....2ND RESPONDENT

VERSES

SHADRACK WANJALA WEKESA& 3 OTHERS.....OBJECTORS/APPLICANTS

DIRECTIONS

1. This matter was scheduled for a ruling in respect to a summons for revocation of grant application dated **16th December 2019**. The court has perused the same and its supporting affidavit sworn by the Applicant and the attendant annexures.
2. The court has perused also the replying affidavit of **Anna Makokha**, the 1st Respondent dated 10th March 2020. At the same time the court has perused the parties' submissions on record.
3. This court is of the considered opinion that the objection proceedings cannot be effectively disposed by way of affidavit evidence. This is for the simple reason that the matter involved a larger part of the party's families. More importantly there are other proceedings in respect to the estate of the late **PENINA NAFULA CHANGA**, namely **Succession cause No.139 of 1999** which it appears gave rise to this cause. Evidence may be required to be adduced from the said cause affecting the parties herein.
4. The affidavits on record as they are, may not bring out the essential historical facts and thus there is need to have **viva voce** evidence adduced. This should give all the parties a good level playing field.
5. Consequently, the application dated 16th December 2019 be heard by way of oral evidence. The Applicants shall be the Plaintiffs and the Respondents the Defendants. Parties be at liberty to file and exchange further affidavits and statements, if any, within the next 14 days from the date herein.
6. Costs shall await the outcome of the cause.

Dated, Signed and delivered at Kitale this 21st day of October, 2020.

H. K. CHEMITEI

JUDGE

21/10/2020

In the presence of:-

Mr. Wanyonyi for the Objector

Mr. Wafula for the Petitioner

Court Assistant – Kirong

Directions given in open court.