



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KAKAMEGA**

**SUCCESSION CAUSE NO. 426 OF 2006**

**IN THE MATTER OF THE ESTATE OF PAULO OKUMU WERAMBO (DECEASED)**

**RULING**

1. This matter relates to the estate of a person known as Paulo Okumu Werambo, who died on 8<sup>th</sup> April 1999. According to a letter on record, dated 27<sup>th</sup> February 2006, from the Chief of Koyonzo Location, he was survived by three widows and nine sons.
2. Representation to his estate was sought through a petition lodged in this cause on 1<sup>st</sup> August 2006, by one of the widows, Marceline Auma Okumu. She listed herself and her two co-wives – Dorice Mumini Okumu and Petronilla Anyango Okumu, and their nine sons – William Werambo, Sylvaine Omondi, Josephat Onani, Pasliano Okanga, Stephen Obiero, Shadrack Werambo, Christopher Opanda, Omulabi Okumu and Okanga Okumu – as the survivors of the deceased. The deceased was expressed to have had died possessed of N. Wanga/Indangalasia/451, 454 and 681 and moneys held by the Public Trustee. Letters of administration intestate were made to her on 8<sup>th</sup> April 1999 and a grant duly issued dated 27<sup>th</sup> June 2007.
3. A summons was lodged herein on 30<sup>th</sup> April 2010 by Petronila Ojwang, dated 30<sup>th</sup> April 2010, seeking that the grant made to Marceline Auma Okumu be annulled, on grounds that the grant was not obtained properly and the estate was not shared out properly. She also complained that the administrator had not disclosed all the children of the deceased in his petition. She filed another summons on 14<sup>th</sup> July 2010, dated 5<sup>th</sup> July 2010, seeking similar orders.
4. Another summons for revocation of the same grant was lodged at the registry on 1<sup>st</sup> February 2012, dated 30<sup>th</sup> January 2012, by Dorika Momini Okumu, on grounds that the administrator had subdivided the estate's assets and distributed the assets only amongst her children to the exclusion of the other houses of the deceased. It was also averred that the administrator left out some of the assets of the deceased, such as N. Wanga/Indangalasia/698.
5. Yet another summons for revocation of grant was filed herein on 24<sup>th</sup> April 2013, by Sylvester Okanga Okumu, Shadrack Werambo and Moses Mulabi, essentially on account of the fact of death of the administrator, Marceline Okumu. They sought that the all the assets of the estate that had been transferred to the name of the late administrator be reverted back to the name of the deceased and that N. Wanga/Indangalasia/698 be added into the schedule of the assets.
6. Yet another summons for revocation of grant was lodged at the registry on 2<sup>nd</sup> July 2013 by Petronila Okumu, dated 2<sup>nd</sup> July 2013, seeking to substitute the dead administrator, and cancellation of the assets that had changed hands. She argued that the grant had been obtained irregularly, the administrator had failed to proceed with diligence to administer the estate and the grant had become useless and inoperative.
7. On 26<sup>th</sup> February 2014, fresh letters of administration intestate were made to Petronila Onyango Okumu and Shadrack Werambo, and a grant duly issued. Thereafter the petronella Onyango Okumu t made an application, dated 31<sup>st</sup> March 2014, for confirmation of her grant. She listed fourteen (14) individuals as the survivors of the deceased and six assets, being N. Wanga/Indangalasia/451, 452, 454, 681, 691 and 698. She proposed distribution therefor amongst the 14 individuals named as the survivors of the deceased.
8. The application that I am called upon to determine is dated 9<sup>th</sup> March 2019. It seeks cancellation of a subdivision of N. Wanga/Indangalasia/451 into several parcels, and the reversion of that property to the name of the deceased, and the addition of the N. Wanga/Indangalasia/698 to the schedule of the assets of the estate.
9. Let me start by stating from the outset that I am disappointed that the parties in this matter have filed numerous applications needlessly. A record four applications for revocation of the same grant were lodged herein. That was needless. What should have been done was to prosecute the first application to be filed instead duplicating the process by filing similar applications.
10. The application that I am now called upon to decide is also a duplication. The orders that are sought in this application are similar to those that are sought in the application dated 24<sup>th</sup> April 2013. Additionally, the application is totally unnecessary as the issues raised in it could quite properly be addressed in the context of the pending confirmation application. The net effect of the unnecessary filing of duplicitous applications is that it delays the finalization of the matter and draws out the proceedings, and in the process exposes the family of the deceased to unnecessary anxiety and expense.
11. To avoid causing the family more pain, by dismissing the application dated 9<sup>th</sup> March 2019, which I feel tempted to do on account of it being duplicitous, I shall allow it to pave way for disposal of the pending confirmation application. I shall endeavor to allocate a date for hearing of the said confirmation application at the delivery of this ruling.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 26<sup>th</sup> DAY OF July 2019**

**W. MUSYOKA**

**JUDGE**