



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT HOMA BAY**

**SUCCESSION CAUSE NO.288 OF 2015**

**IN THE MATTER OF THE ESTATE OF:**

**JOASH KOYO KASATI..... DECEASED**

**AND**

**GEORGE OPIEN KOYO.....OBJECTOR/APPLICANT**

**VERSUS**

**ANDERSON OCHIENG KOYO..... PETITIONER/RESPONDENT**

**RULING**

[1] Upon the death of the deceased, **Joash Koyo Kasati**, on or about the 30<sup>th</sup> June 2001, the petitioner/respondent, **Anderson Ochieng Koyo**, petitioned this court for grant of letters of administration Intestate respecting the estate of the deceased comprising of a portion of land described as **North Karachuonyo/Kakwajuok/1682**. In doing so, he represented himself as the sole survivor or heir of the deceased and on the basis of that representation, the court issued the necessary grant to him on the 12<sup>th</sup> October 2015. He later applied for confirmation of the grant and on the 15<sup>th</sup> April 2016, the necessary certificate of confirmation of grant was issued to him. The estate property was thus wholly transmitted to him as the sole beneficiary.

[2] Three or so years later, on the 11<sup>th</sup> June 2019, the applicant/ objector, **George Opien Koyo**, filed the present summons for revocation or annulment of grant dated 8<sup>th</sup> June 2019, on the basis of the grounds therein as supported by the averments in his supporting affidavit dated 8<sup>th</sup> June 2019.

The petitioner/respondent filed a replying affidavit on the 19<sup>th</sup> June 2019.

Thereafter, the court directed that the summons for revocation of the grant be heard by way of affidavit evidence.

In that regard, the objector filed his written submissions dated 19<sup>th</sup> July 2019 on the 22<sup>nd</sup> July 2019, through **M/s veronica Migai & Co. Advocates**, while the petitioner filed his written submissions dated 19<sup>th</sup> July 2019 also on the 22<sup>nd</sup> July 2019. He also filed supplementary submissions dated 8<sup>th</sup> October 2019, on the 11<sup>th</sup> October 2019.

[3] Having given due consideration to the application, on the basis of the supporting grounds and the submissions by both the applicant and the respondent, this court's opinion on the matter is that the petitioner/respondent's response to the application as may be deciphered from his replying affidavit and submissions clearly amounts to nothing short of a bold confession of his "**sins**" in obtaining the grant fraudulently by the making of a false statement and by concealment of material facts in terms of **section 76 (b)** of the **Law of Succession Act**.

The petitioner is actually begging for forgiveness and explaining the reasons behind his clandestine and unlawful move to obtain the grant.

[4] It would therefore be proper for this court to hold that the application for revocation of the grant is essentially not opposed by the petitioner.

In the circumstances, the application be and is hereby allowed to the extent that the grant dated 12<sup>th</sup> October 2015 and the certificate of

confirmation of grant dated 15<sup>th</sup> April 2016, both issued to the petitioner are revoked forthwith and a fresh grant of letters of administration shall forthwith issue to the surviving representatives of the first four (4) houses

of the deceased i.e. **Karen Ondenge Koyo** (first widow), **Anderson Ochieng Koyo** (son to the deceased's second widow – Hilder Aketch Koyo (deceased)), **Elsa Odhiawo Koyo** (third widow) and **Pamella Akinyi Koyo** (daughter to fourth widow – Damar Ogembo Koyo (deceased)).

[5] The four persons shall administer the estate of the deceased and ensure fair and equitable distribution of the same among all the seven houses of the deceased in accordance with **Section 40 (1)** of the **Law of Succession Act** which provides that:-

**“Where an intestate has married more than once under any system of law permitting polygamy, his personal and household effects and the residue of the net estate shall, in the first instance, be divided among the houses according to the number, of children in each house, but also adding any wife surviving him as an additional unit to the number of children”.**

[6] Once the administrators and the other immediate beneficiaries agree on the mode of distribution of the estate, they may or any one of them may take out the necessary summons for confirmation of grant, but in any event not later than six (6) months from this date hereof.

Those are the orders of the court.

**J.R. KARANJAH**

**JUDGE**

**23.10.2019**

**[Dated and delivered this 23<sup>rd</sup> day of October, 2019]**

[In the presence of M/s Migai for Applicants and the Petitioner/Respondent].