



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

SUCCESSION CAUSE NO.501 OF 2009

IN THE MATTER OF THE ESTATE OF NICHOLAS MAISIBA (DECEASED)

CHARLES MOKAYA OTWORI.....PETITIONER/APPLICANT

- VERSUS -

WILKISTER MORAA OTWORI.....OBJECTOR (DECEASED)

JOHN KEBASO OTWORI – 2ND HOUSE

GRACE MORAA OTWORI -1ST HOUSE

GEORGE MORARA OTWORI -2ND HOUSE

RISPER KWAMBOKA -2ND HOUSE

OTWORI OMORI ERICK -2ND HOUSE.....OBJECTORS

AND

RONALD ONYONGA OBONYO.....INTERESTED PARTY

RULING

1. On the 26/8/2009 Charles Mokaya Otworu petitioned for letters of administration intestate for the estate of Nicholas Otworu Maisiba who died on 29/12/2003. He did so as the son of the deceased. On the 11/1/2010 Wilkister Moraa Otworu filed an objection to making of grant. She claims to be the 2nd wife of the deceased. She also claims that the petitioner left out names of other beneficiaries who are entitled to the estate. On the 18/1/2010 Ronald Onyonka Obonyo an interested party filed a notice of objection stating that he bought parcel West Kitutu/Bomatara/1824 from the brother Reuben Manyange Otworu as per the agreement dated 19/11/2001. In his affidavit filed in court on the 29/11/2010 Ronald Onyonka Obonyo claims he is the one occupying Land Parcel No. West Kitutu/Bomatara/1824 which he bought from Reuben Manyange Otworu.

2. On the 13/9/2011 Wilkister Moraa Otworu applied to have the grant confirmed after the court issued a grant to Charles Mokaya Otworu, Wilkister Moraa Otworu and Ronald Onyonka Obonyo on the 26/7/2011. Ronald also filed an application to confirm the grant on the 9/11/2017. On the 28/6/2018 John Kebaso Otworu filed an application to be substituted since the initial petitioner Wilkister Moraa is deceased. In his application he seeks to have himself and others namely Grace Moraa Otworu, George Morara Otworu, Grace Kerubo Otworu, Risper Kwamboka and Otworu Omari Erick to be substituted since the initial petitioner Wilkister Moraa who is deceased. Ronald Onyonka Obonyo objects stating that Reuben Manyanya Otworu is alive and that the wife of Charles Mokaya Otworu's too is alive and that the 2 have not been included in the matter. That Reuben and Charles's wife should be the one seeking the substitution.

3. The grant that was issued by this court on the 26/7/2011 has not been revoked. It's apparent that Charles Mokaya Otworu is deceased and Wilkister Moraa Otworu too from what is deposed by John Kebaso Otworu. John Kebaso Otworu states he is the only surviving son of Nicholas Otworu Maisiba. This is not the case as one Reuben Otworu who was in court informed the court that he is the eldest son of Wilkister and that he has been left out. To enable the parties move in this matter I revoke the grant issued **26/7/2011** and order that a fresh grant shall be issued on the names of **Reuben Otworu** and **Ronald Onyonka Obonyo**. Any other parties mentioned like the wife of Charles Mokaya Otworu are at liberty to apply to be appointed administrators. The law allows up to four administrators see section 56 (1) of the Law of Succession Act Cap 160.

