

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 1568 OF 1994

IN THE MATTER OF THE ESTATE OF PAUL MWAURA THUO (DECEASED)

RULING

1. On 20th January 2017, I delivered a ruling wherein I confirmed the grant and ordered distribution of the estate in the terms proposed in the ruling. The said judgment provoked the filing of an application, dated 22nd February 2017, for revocation of the certificate of confirmation grant issued herein dated 20th January 2017. There are several consequential prayers.

2. The application is founded on section 76 of the Law of Succession Act, Cap 160, Laws of Kenya, which provides for revocation of grants. The said provision is not designed to address problems with the distribution of the estate, rather it is concerned with the manner a grant of representation is obtained, the manner the estate has been administered and whether the grant is still operative. It has nothing to do with revocation of the certificate issued upon confirmation of a grant. Indeed, the only connection between section 76 and confirmation of a grant is that the court is given discretion to revoke a grant where the holder thereof fails to move for confirmation thereof within the period indicated. For that reason the application before me is not well grounded.

3. The contents of the affidavit in support of the application no doubt reveal that the applicant is dissatisfied with the orders that the court made on confirmation of the grant and distribution of the estate. The remedy availed by the law for any person so dissatisfied is review of the orders if grounds exist for such review; or appeal against the orders if grounds exist for such appeal. Revocation of the certificate issued upon the said orders is not available as a remedy.

4. The other thing that needs to be stated is that the certificate of confirmation of grant is a formal document extracted from the orders that the court makes on a confirmation application. The revocation of the certificate does not affect the orders themselves, which are largely left intact. It therefore would serve no purpose to revoke or annul or cancel the certificate without vacating or setting aside the orders from which it derives.

5. The short of it is that the application dated 22nd February 2017 is wholly misconceived and devoid of merit. I shall accordingly dismiss it with costs.

DATED, SIGNED and DELIVERED at NAIROBI this 8TH DAY OF DECEMBER, 2017.

W. MUSYOKA

JUDGE