



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERUGOYA
SUCCESSION CAUSE NO. 292 OF 2015
IN THE MATTER OF THE ESTATE OF R K M R M K (DECEASED)

J V W N.....APPLICANT

AND

A N M.....1ST RESPONDENT

N W K.....2ND RESPONDENT

RULING

1. J V W N the applicant herein has taken out Summons for Revocation of Grant dated 23rd July, 2015 seeking to revoke the limited grant of letters of administration *Ad Litem* to the estate of R K M ALIAS R K M (Deceased) issued on 8th June 2015 to A N M and N W K , the respondents herein.

2. The grounds upon which revocation of grant was sought were as follows:

i. That the applicant is also a widow to the deceased herein.

ii. That the grant was obtained through concealment of material facts.

iii. That the applicant ranks in priority to the 2nd respondent, N W K who is said to be a mother to the deceased.

3. In her supporting affidavit, the applicant through counsel M/S Wanyonyi & Muhia Advocate exhibited a birth certificate “JV N3” showing that the deceased was the father to C N born on 18th April, 2014. The applicant deposed that she got married to the deceased under Kikuyu Customary Law in 2010 and became the 2nd wife of the deceased after the 1st respondent. She has contended that the respondents are well aware of this fact and the fact that they were living together as man and wife with the deceased.

4. The applicant asked this Court to revoke the grant so that the two of them can be appointed as joint administratrixes to pursue litigation on behalf of the estate and ensure that her interest and that of the child will be catered for.

5. The respondents did not file any response to the application and therefore the facts presented by the applicant are uncontested. It is therefore clear that there was material concealment of true facts in regard to the existence of the applicant as the 2nd widow. Mr Ngigi counsel for the respondent pointed out that the only issue he had with the application was that directions were not taken prior to the hearing of the

application. However, directions are usually given under **Rule 44** of the **Probate and Administration Rules** when the Summons for revocation of grant is opposed. Furthermore when the court is made aware of concealment or inadvertent mistake when issuing a grant, a court is empowered under **Section 76** of the **Law of Succession Act** to revoke the grant even on its motion.

This Court finds that the limited grant of letters of administration *Ad Litem* issued on 8th June, 2015 to A N M and N W K , was obtained through concealment of the existence of the 2nd widow, the applicant herein who ranks higher in law in the administration of the estate than the 2nd respondent. Under **Section 66** of the **Law of Succession Act** this Court finds that she is entitled to be appointed joint administratrix together with A N M. The two are hereby appointed joint administratrixes of the estate of the late R K M Alias R M K limited to the purposes of litigation only. It is so ordered.

Dated and delivered at Kerugoya this 16th day of June, 2016.

R. K. LIMO

JUDGE

16.6.2016

Before Hon. Justice R. Limo J.,

Court Assistant Willy Mwangi

Ann Ngima present

Nancy Wakera Kinyua present

Ngigi for Respondent absent

Wanyonyi for applicant absent

COURT: Ruling signed, dated and delivered in the open court in the presence of respondents and in the absence of Wanyonyi for applicant and Ngigi advocate for respondents.

R. K. LIMO

16.6.2016