

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 763 OF 1997

IN THE MATTER OF THE ESTATE OF PETER MUIGAI RUHIU (DECEASED)

RULING

1. I have gone through the statements of accounts filed by the parties and I am satisfied that there has been full compliance with the orders requiring accounts. I shall leave it to the parties to move the court appropriately with respect to any concerns arising from the said accounts.

2. I have gone through the file and noted that the grant herein was confirmed on 21st May 1999. To date the estate has not been distributed, yet section 83(g) of the Law of Succession Act, Cap 160, Laws of Kenya, imposes a duty on personal representatives to complete administration within six (6) months of the confirmation of the grant. That provision is in mandatory terms. The estate herein ought to have been distributed by 21st November 1999. It is now sixteen (16) years since that time expired. The failure to complete administration within the time stipulations means that administrators have failed in their duties.

3. The parties have expended considerable time on accounts. The matter of the accounts cannot be an excuse for failing to complete administration. That issue can be pursued even after distribution of the assets and whoever is found to be guilty of maladministration required to reimburse the estate.

4. I will grant the administrators time to complete administration of the estate. There is discretion in section 76 of the Act for the court to revoke a grant *suo moto*. The exercise of that discretion is available in the circumstances of the case now before me.

5. Consequently I shall direct as follows:-

(a) That the administrators to complete administration of the estate herein by distributing the assets in terms of the confirmation orders made on 21st May 1999;

(b) That that should be done within thirty (30) days of the date of this order;

(c) That the Deputy Registrar shall serve copy of this ruling on the Public Trustee;

(d) That the matter shall be mentioned after thirty (30) for compliance and for further orders; and

(e) That non-compliance with (b) above shall expose the grant herein to revocation.

DATED, SIGNED and DELIVERED at NAIROBI this 18TH DAY OF NOVEMBER, 2016.

W. MUSYOKA

JUDGE