

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

SUCCESSION CAUSE NO. 561 OF 2013

IN THE MATTER OF THE ESTATE OF: OLELA OKECH.....DECEASED

AND

FELIX OPONDO OLELA.....PETITIONER

VERSUS

LUCAS OBIERO MUSANDO.....OBJECTOR

R U L I N G

- 1).** The application dated 24-3-2014 by the petitioner herein prays that the objection herein dated 10-4-2013 be dismissed for want of prosecution and that he be confirmed the administrator of the deceased estate herein. When both parties appeared before this court the court took the view that it shall peruse the proceedings and give its ruling.
- 2).** The pleadings or the set of forms filed herein do not indicate the objector as a direct beneficiary to the estates herein. He claims to be entitled to the land parcel No. East Ugenya/Anyiko/1621 which is registered in the names of the petitioner's father by virtue of the fact that he is a nephew. By perusing the uncontested replying affidavit by the petitioner sworn on 2-5-2013 it is clear that if there is any interest on the part of the objector then the same ought to be subjected to a viva voce evidence. It further appears that there are other suits filed in respect to the suit parcel of land which in my opinion may not serve any useful purpose at this time to consider.
- 3).** In light of my above observations I do not think that there is any impediment to the petitioner/respondent being granted letters of administration in respect to the deceased estate. The objector's rights over the suit property can be determined during the distribution stage or at the state of confirming the grant.
- 4).** Consequently, I do order that letters of administration be issued to Felix Opondo, the petitioner herein. The objector's interest be determined at the confirmation state. Costs in the cause.

Dated, signed and delivered at Kisumu this 18th day of February, 2015.

H.K. CHEMITEI

JUDGE