

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

SUCCESSION CAUSE NO. 608 OF 1999

IN THE MATTER OF THE ESTATE OF: WILLIS ONYANGO DIAH.....DECEASED

AND

IN THE MATTER OF AN APPLICATION BY:

ERASTUS ADIEDO DIAB & FRANCIS XAVIER OTIENO.....APPLICANTS

R U L I N G

By her application dated 15-5-2013 the applicant prays that this court do vary the order issued on 8-3-2011 which had ordered that a grant issued on 14-2-2000 be returned. She alleges that the same cannot be traced. The application is supported by the affidavit of the applicant sworn on 15-3-2014.

The estate was being administered by one Erastus Adiedo and Francis Xavier. She alleges that Erastus has since died and Francis Xavier cannot be traced. The court has perused the court file and there are no proceedings of 8-3-2011 demanding that the grant be returned.

Form the P & A 5 form it is clear that the applicant is one of the beneficiaries to the deceased estate. In the absence of Francis Xavier therefore there is no roadblock stopping the applicant from applying for the letters of administration in the estate of the her late father.

Consequently and assuming that Francis Xavier is unavailable the applicant may proceed to apply for grants of letters of administration in respect to the estate of the deceased. If Francis Xavier shall be available in future then the court shall make appropriate decision.

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

**H.K.
JUDGE**

CHEMITEI