



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

SUCCESSION CAUSE NO. 851 OF 2012

IN THE MATTER OF THE ESTATE OF ALWOCH OBARA ALIAS

ALWOCHI UBALA.....DECEASED

AND

ABISALOM KAYERE MSIGO.....PETITIONER

VERSUS

TOM WILLIAM ONGUKA.....APPLICANT

RULING

1. The deceased herein ALWOCH OBARA alias OLWOCH UBALA died on 12/05/1975 while registered as the proprietor of the parcel of land known as KAKAMEGA/LUSIOLA/1096 as the only known asset.
2. Grant of his representation was issued on 02/11/2012 to the Petitioner herein ABISALOM KAYERE MISIGO in his capacity as the deceased's son.
3. On 09/01/2013, the Applicant herein TOM WILLIAM ONGUKA filed the Summons for Revocation of the Grant dated 03/01/2013. In support thereto was the affidavit evenly sworn by the Applicant. The Applicant decries fraud on the part of the Petitioner alleging that the Petitioner is not in anyway related to the deceased and that the allegation that the Petitioner was the deceased's son remained untrue. He called for the revocation and/or annulment of the Grant in issue.
4. I have carefully perused the entire record and it appears that the Applicant claims to be the deceased's grandson whereas the Petitioner claims to be the deceased's son. However, the main issue for determination in this cause as a whole would be who among the Petitioner and the Applicant will be entitled to inherit the deceased's land aforesaid. That issue therefore calls for evidence and with a view to finally determine the dispute herein the Summons for revocation dated 03/01/2013 shall stand determined in the following manner and the Court makes the following orders: -
 - a. **The Summons for Revocation or Annulment of the Grant dated 03/01/2013 be and is hereby dismissed;**
 - b. **The Petitioner/Administrator shall file and serve a Summons for Confirmation of the Grant within the next 14 days and the Applicant will be at liberty to respond thereto within 14 days**

of such service.

- c. There shall be a restriction on the parcel of land known as KAKAMEGA/LUSIOLA/1096 against any and all transactions thereto pending further orders of this Court.
- d. The prevailing status quo on the land known as KAKAMEGA/LUSIOLA/1096 shall be maintained pending further orders of the Court.
- e. The matter shall be listed for directions within 60 days of the date herein.
- f. Each party to bear its costs of the application.

DATED, DELIVERED AND SIGNED AT KAKAMEGA THIS 12TH DAY OF FEBRUARY 2015.

A. C. MRIMA

JUDGE