



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KITALE

SUCCESSION CAUSE NO. 224 OF 2013

IN THE MATTER OF THE ESTATE OF ALEXANDER KIPSIELE A. NGENO - DECEASED

KIPRONO SIELE.....PETITIONER

AND

JENNIFER CHERONO NGENO

RICHARD KIPKOECH SIELE.....OBJECTOR

R U L I N G

1. The summons for revocation of grant dated **21st February, 2014**, was taken out by the objector/applicants as widow and son of the deceased respectively. The two are seeking orders that the grant issued on **28th January, 2014** to the petitioner/respondent be revoked and/or annulled on grounds that:-

- (i) The proceedings to obtain the grant were defective in substance.
- (ii) The grant was obtained by means of untrue allegation of a fact essential in part of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently.
- (iii) The grant was obtained fraudulently by making of a false statement or by concealing from the court of something material to the case.
- (iv) The petitioner lied to the court that he was the only surviving child of the deceased and omitted to include the objectors and other beneficiaries all numbering **eight (8)**.
- (v) The deceased was a polygamous man with two wives a fact concealed from the court by the petitioner.

2. These grounds are essentially the grounds availed in law for revocation and/or annulment of grant as provided by Section 76 of the Law of Succession Act. They are herein fortified by the averments contained in the supporting affidavit dated **21st February, 2014** deponed by the first objector.

The petitioner did not file any ground of objection and/or response to the application. One **Cyrus Wanjeru Mwangi** and one **Mike Kiptoo Cheplayengi** entered appearance in this matter without any indication as to their interest in the estate of the deceased and without filing any supporting or replying affidavit to the application. The two may therefore be described as strangers in this matter as opposed to

interested parties. They were represented by a legal counsel at the hearing of the application and purported not to raise any objection to the application.

3. Be that as it may, the subject grant was made by this court on **28th January, 2014**, upon a petition presented by the petitioner on the **18th September, 2013**, in which he described himself as the sole surviving relative to the deceased and was in fact his only son. This implied that the deceased did not leave behind a widow or widows or any other child.

The grant is yet to be confirmed meaning that the distribution of the estate is yet to be effected.

4. This application remains unopposed and in so far as it indicates that the deceased was married to two women including the first objector and one **Petrolina Kikwa Ngeno** (now deceased) and that he had several children with both wives, it would follow that the grant was obtained by the petitioner by fraud and concealment of material facts.

Consequently, this application is truly merited and is hereby granted to the extent that the grant be and is hereby revoked with costs to the objectors.

Ordered accordingly.

J.R. KARANJA

JUDGE

25/6/2015

Read and signed this 25th day of June, 2015

In the presence of M/s Munialo holding brief for Mr. Samba and M/s Arunga for Interested Parties.