

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

PROBATE AND ADMINISTRATION DIVISION

SUCCESSION CAUSE NO. 2070 OF 1994

IN THE MATTER OF THE ESTATE OF RUTH WANJIKU MAINA (DECEASED)

R U L I N G

1. The deceased to whose estate these proceedings relate is Ruth Wanjiku Maina who died on 27th May 1994. A grant of letters of Administration of her intestate Estate was made to George Mbugua Kimani and Nahashon Kamau on 20th December 1994. Thereafter the Administrator took no further step to distribute the Estate.

2. On 28th May 2015 the court moving *suo moto* issued notice to parties under **Section 73** of the **Law of Succession Act** to take steps to prosecute the cause within one month of the Notice or the matter would be closed. The parties did not respond. On 26th June 2015 the court, revoked the grant issued herein under **Section 76(d)(i)** of the **Laws of Succession** and marked the file as closed.

3. On 6th October 2015 George Mbugua Kimani, one of the Administrators filed a Notice of Motion to have the orders of the court issued on 26th June 2015 set aside and the grant reinstated. The grounds on the face of the application are that by the time the Applicants received the said notice from the court, the 30 days stipulated therein had already lapsed. That they came to court to take action only to find that the grant had already been revoked and the file marked as closed.

4. The application is supported by the affidavit of George Mbugua Kimani in which the averments are in line with the grounds set out above. He reiterated that their non-attendance was not deliberate. Contemporaneously with the Notice of Motion the two Administrators filed summons for confirmation of grant with a supporting affidavit signed by both administrators, and a consent signed by the other two beneficiaries in the Estate.

5. Having perused the grounds of application and the supporting affidavit, I am of the opinion that the application has merit and it would be in the interest of justice to grant it. The orders of court made on 26th June 2015 are hereby set aside and the grant made on 20th December 1994 to George Mbugua Kimani and Nahashon Kamau reinstated. The Summons for confirmation of grant be listed for hearing in the new term on priority basis.

It is so ordered.

SIGNED DATED and DELIVERED in open court this **11th day of December, 2015.**

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L. A. ACHODE

JUDGE