



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO

P & A CAUSE NO.29 OF 1996

**IN THE MATTER OF THE ESTATE OF
KIPRONO ARAP LANGAT – DECEASED**

AND

PAULINE CHELANGAT RONO.....PETITIONER/RESPONDENT

VERSUS

JOHANA KIPKOSGEI SIMOTWO.....1ST APPLICANT

MATHEW SIMOTWO.....2ND APPLICANT

RICHARD SIMOTWO.....3RD APPLICANT

R U L I N G

The subject matter of this ruling is the summons for revocation of grant dated 16th November 2009 taken out by Johana Kipkosgei, Mathew Simotwo and Richard Simotwo hereinafter referred to as the 1st, 2nd and 3rd Applicants respectively. Kikwai Rono, William Rono and Rael Rono the Respondents herein, filed the replying and a further affidavit of Kikwai Rono to oppose the summons. When the summons came up for hearing, the parties to this dispute recorded a consent order to have the application disposed of by written submissions.

I have considered the grounds set out on the face of the summons plus the facts deponed in the affidavits filed in support and against the summons. I have further considered the rival submissions. The applicants main ground argued in support of the summons for revocation of grant is that the Deputy Registrar of this court had no jurisdiction to issue and confirm the grant. It is also argued that the person who was appointed as the administratrix of the Estate of Kiprono Arap Langat, deceased did not diligently administer the Estate. The Respondents urged this court to dismiss the summons claiming that the same was filed after an inordinate delay of over 10 years and after the Petitioner *i.e.* Pauline Chelangat Rono had passed on. The Respondents pointed out that as a result of the delay, titles have been issued on the basis of the confirmed grant. In other words the Respondents aver that the administration of the Estate is now complete hence this court should not disturb the status quo. The Respondents further argued that since the administratrix is dead, there is no competent grant to revoke.

There is no dispute that Pauline Chelangat Rono successfully applied for the grant of letters of

administration intestate in respect of the Estate of Kiprono Arap Langat, deceased. The administratrix identified L.R. Kericho/Kipsonoi/168 as the only Estate asset. She distributed the aforesaid asset to the beneficiaries and as of now titles have been issued and the land is no longer in the deceased's name. In essence, title was closed upon subdivision on 4th May 1999. The Petitioner, Pauline Chelangat Rono passed away in 2000. The Applicants are before this court seeking for the revocation of the grant issued to the Petitioner who is already dead and has not been substituted. Strictly, speaking there is no one to defend the allegations levelled against the deceased administratrix. For this reason, I find the summons for revocation of grant incompetent. There was a considerable delay in filing the summons for revocation of grant. It was filed 9 years after the administratrix died and 11 years after the grant was confirmed. By the time the summons was being filed the administration of the Estate was complete hence there is nothing remaining to talk about. The Applicants are guilty of laches hence they cannot be assisted in law and in equity.

In the end I see no merit in the summons for revocation of grant dated 16th November 2009. The same is ordered struck out and dismissed. Since the disputes involves close family members, I direct that each meets his own costs.

Dated, signed and delivered in open court at Kericho this 16th day of May 2014.

J. K. SERGON

JUDGE

In the presence of:

Applicants: present in persons

Respondent: present in person