



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**SUCCESSION CAUSE NO. 1434 OF 2008**

**IN THE MATTER OF ROSE ALUSO ODONGO – DECEASED**

**RULING**

1. The application dated 24<sup>th</sup> January 2014 is brought under **Section 76** of the Law of Succession Act. It seeks substitution of the current administrators of the estate with another set of administrators.
2. I have carefully gone through the application. To my mind the applicants are asking the court to revoke the grant made to the current administrators on the ground that they have failed to proceed diligently with the administration of the estate.
3. Rule 44 of the Probate and Administration Rules governs the procedure to be followed in respect of applications founded on Section 76 of the Law of Succession Act. The matter is set down for directions by virtue of Rule 44(3) for the purpose of the court directing service of the application on all affected persons. After the service ordered under Rule 44(3), the matter is once placed before the judge for directions on the mode of hearing. There has been no compliance with Rule 44.
4. In any event the only application envisaged under **Section 76** of the Law of Succession Act is for revocation of grant, and not for substitution. Serving administrators cannot be substituted otherwise than by orders made on the basis of **Section 76** of the Act following revocation of the grant made to them.
5. I am unable to grant the orders sought on the basis of the Chamber Summons dated 24<sup>th</sup> January 2014. I will therefore dismiss the same with costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 31<sup>ST</sup> DAY OF July 2014.**

**W. MUSYOKA**

**JUDGE**