



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 1459 OF 2007

IN THE MATTER OF THE ESTATE OF JOACHIM OLIVER SULLIVAN (DECEASED)

JOHNIE MICHAEL SULLIVAN.....PETITIONER

VERSUS

GEORGE ADOLPH SULLIVAN

DERRICK SULLIVAN

ANGELA SULLIVAN

LINDA SULLIVAN

LISETTE SULLIVAN.....OBJECTORS

RULING

The deceased Joachim Oliver Sullivan died 10/9/79. The Applicant filed the objection to making of grant filed on 6/2/2012 objecting to the grant made on 19/7/2011. The grounds are that the Objectors being beneficiaries of the estate of the deceased did not consent to the Petition being obtained by the Petitioner Johnie Michael Sullivan. The Petitioner obtained the grant fraudulently. The application was not read and determined.

The Objectors through Counsel Mr. Mutua wrote to the Court on 14/5/2012 on the issue of the grant while an objection was raised and filed within the requisite period. The Family Court Division Registry the Deputy Registrar by a letter dated 17/5/2012 admitted that the Objector's application was not brought to the attention of the Deputy Registrar.

The Applicant through the Counsel served the same application on the Respondent/Petitioner and the Hearing Notice of the hearing of the applications on the Petitioner's Advocate Waithima & Co. Advocates on 22/9/2014. The Affidavit of Service was filed on 8/10/2014.

The Respondent/Petitioner did not attend Court or advance reason for the Court to consider. The matter produced ex parte Mr. Mutua on behalf of the Objectors explained the matter to Court on the substantive application of 6/2/2012.

The facts and pleadings were not controverted and it is legal matter that grant of letters of administration are obtained with relevant consent and disclosure as required by Section 26 (1)(2) of the Probate & Administration Rules.

The grant of letters of administration issued to the Petitioner herein did not comply with Section 66 of the Succession Act and Part III 7(7) of the Probate & Administration Rules. Any person seeking a grant of letters of administration ought to obtain consents in writing to the making of the grant to the applicant by other beneficiaries or dependants

In light of breach of the legal requirement of obtaining a grant by the Petitioner by having the relevant consents from the other beneficiaries the grant of 19/11/2011 herein is hereby revoked and annulled by virtue of Section 76 (b) of Succession Act. The process of obtaining a grant of letter of administration for the estate of the deceased Joachim Oliver Sullivan be conducted afresh and in compliance of the Law.

No orders as to costs.

Read and Signed at Nairobi on this 31st Day of October, 2014.

In the presence of Mr. Wandati holding brief for Mr. Mutua for the Applicant.

MUIGAI

JUDGE