



**REPUBLIC OF KENYA**

**High Court at Kakamega**

**Succession Cause 27 of 1991**

**ALFAYO AMUKHUMA NYAMASI ..... PETITIONER/RESPONDENT**

**AND**

**DAVID OTUMA AMWANDA ..... APPLICANT**

**R U L I N G**

The Chamber Summons dated 8.8.11 seeks orders that the grant of letter of Administration to the respondent, **ALFAYO AMUKHUMA MAKWATA** made on the 15<sup>th</sup> October 1991 and confirmed on the 18<sup>th</sup> June 1992 be revoked and or annulled on the following grounds that:-

- a) The grant was obtained fraudulently by making of false statement or by concealment of material facts.
- b) The grant was obtained by means of untrue allegations.

The application is supported by the affidavit in support sworn by the applicant **DAVID OTUMA AMWANDA** on 8.8.2011.

According to the said affidavit, the applicant is the daughter of the deceased, **AMWANDA MAKWATA** who died on 6<sup>th</sup> September 1977. The deceased was the registered owner of L.P. NO. KISA/MUSHANGUBU/493. The grant of letters of Administration in the estate of the deceased was made to the respondent on 15<sup>th</sup> October, 1991 and confirmed on 18<sup>th</sup> June, 1992.

The applicant's contention is that the respondent was not related to the deceased and falsely presented himself as a beneficiary to the court. That when the fraud was discovered the matter was reported to the police and the respondent was arrested, charged, convicted and sentenced in Kakamega CMCRC. No. 1230 of 1993.

The following are the true survivors of the deceased according to the applicant:-

- **Leonida Amakobe** - **Widow**
- **David Otuma Amwanda** - **Son**
- **Rapha Ayuma** - **Daughter**
- **Simbi Makwata** - **Son**

It is further averred by the applicant that the respondent had himself registered as the proprietor of land parcel No. **KISA/MUSHANGUBU/493** thereby disinheriting the true survivors of the deceased.

No papers were filed in opposition to the application. When the application proceeded to hearing on 17.7.12, the respondent was not present although duly served as per the affidavit of service sworn by the process server. The applicant's affidavit evidence has not been controverted by any other evidence.

Consequently, I allow the application as prayed. Costs to the applicant.

*Delivered, dated and signed at Kakamega this 24<sup>th</sup> day of October, 2012*

**B. THURANIRA JADEN**  
**J U D G E**