



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MERU

SUCCESSION CAUSE NO. 449 OF 2010

**IN THE MATTER OF THE ESTATE OF M'NAIVASHA M'RINKURI *alias* M'NAIVASHA
M'RINYIRU (DECEASED)**

MARGARET GATANGA IFACA 1ST APPLICANT
MURITHI ROBERT IBASHA 2ND APPLICANT
IVASHA DOUGLAS MURANGIRI 3RD APPLICANT
FRANCIS MUTEGI M'NAIBASHA 4TH APPLICANT

VERSUS

PATRICK MUKURU IVASHA RESPONDENT

RULING

The petitioner Patrick Mukuru Ivasha filed a succession cause in Principal Magistrate Court at Chuka being Succession Cause No. 20 of 2010. That succession was the subject of an application for revocation of grant filed in this cause which was filed by 4 applicants. The names of those applicants are, Margaret Gatanga, Ifaca, Murithi Robert Ibasha, Ibasha Daglous Murangiri and Francis Mutegi M'Naibasha. On 15th February 2011, a consent was reached between the applicant's counsel and the respondent's counsel. It was to the effect that the grant issued in Chuka PM Succession Cause No. 20 of 2010 be revoked and a fresh grant be issued in the joint names of Murithi Robert Ibasha and Patrick Mukuru Ivasha. When the matter came before court again on 28th March 2011, the applicants counsel informed the court that they had discovered a written will which needed to be introduced in this matter. The court adjourned this matter to today's date for the purpose of giving directions in this matter. Having perused the Chuka succession cause, the application for revocation of grant and the affidavit of Murithi Robert Ibasha of 6th May 2011, I find that the order that should be given in this matter is that this matter should be heard by way of *viva voce* evidence to determine the issue herein. I therefore make the following orders:-

1. *This court orders that this matter be heard by way of viva voce evidence to determine the following issues:-*

a) *Whether the deceased died leaving a valid written will.*

b) *If the answer to (a) is in the negative, who are the beneficiaries of this estate and how will the estate be divided amongst them.*

2. *The parties are directed to take a date at the registry for the purpose of getting a hearing date.*

Judgment by:-

MARY KASANGO
JUDGE

Dated, signed and delivered at Meru this 21st day of July 2011.

J. LESIIT
JUDGE