



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NYERI**

**Succession Cause 484 of 2004**

**IN THE MATTER OF THE ESTATE OF MUGAMBI MURURIA – DECEASED**

**SIMON MUCHIRI MUGAMBI.....PETITIONER**

**VERSUS**

**CYRUS MURAGE KARIUKI.....OBJECTOR**

**RULING**

The Grant of Letters of Administration intestate in respect of the Estate of Mugambi Mururia, deceased, was made to **SIMON MUCHIRI MUGAMBI**, hereinafter referred to as the 'Petitioner', on 17<sup>th</sup> March 2005 and confirmed on 23<sup>rd</sup> October 2006. **CYRUS MURAGE KARIUKI**, hereinafter referred to as the 'Objector' applied for the revocation of the grant vide the application dated 5<sup>th</sup> July 2007. There is no evidence that the Petitioner filed any response to the aforesaid application. He, however, filed written submissions just like the Objector.

I have considered the grounds set out on the face of the Summons for Revocation of Grant. I have further considered the written submissions filed by both sides. There is no dispute that the only Estate asset stated to be available for distribution in the certificate of confirmation of grant is **Plot No. 305-OLD PUMWANI**. It is the submission of the Objector that the aforesaid Plot did not belong to the deceased. It is said it belonged to the Objector having inherited from his aunt Halima Wanjiru vide **SUCCESSION CAUSE NO. 118 OF 1979**. It is also argued that the Petitioner obtained the grant by concealing facts material to the Succession proceedings. It is alleged that the Petitioner failed to disclose that the deceased had sued the Objector vide **NAIROBI H.C.C. NO. 74 OF 1985** over the ownership of the aforesaid property. That suit was dismissed and the Objector was declared the owner. The Petitioner did not deny the averments contained in the affidavits. In fact he only attacked the annexures attached to the affidavit filed in support of the application for revocation of grant. After a careful consideration of the rival submissions, I am satisfied that the Objector has established that the property known as **PLOT NO. 305-OLD PUMWANI** does not belong to the deceased hence it cannot form part of the assets of the Estate of Mugambi Mururia, deceased. I am also convinced that the Petitioner is guilty of material non-disclosure. He had failed to disclose that the deceased had filed a suit against the Objector claiming ownership of the aforesaid property. I am convinced that on the basis of the above reasons, the application for revocation of grant should be allowed. It is allowed as prayed with costs to the Objector.

*Dated and delivered at Nyeri this 28<sup>th</sup> day of May 2010.*

**J. K. SERGON**

**JUDGE**

In open court in the presence of Mr. Ndirangu for Applicant and Kingori holding brief Ng'ang'a for the Respondent.