



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**OF KISII**

**Miscellaneous Civil Application 41 of 2010**

**IN THE MATTER OF THE ESTATE OF JECONIA AYODO ONYIERO (DECEASED)**  
**IN THE MATTER OF ANNULMENT OF GRANT OF LETTERS OF ADMINISTRATION**

**BETWEEN**

**PETER ELLY OKEYO OKUL ..... OBJECTOR/APPLICANT**

**AND**

**HEZBON OCHIENG AYODO ..... PETITIONER/RESPONDENT**

**RULING**

The applicant filed an application dated 14<sup>th</sup> April 2010 seeking, *inter alia*, that the Grant of Letters of Administration intestate issued to the respondent on 16<sup>th</sup> June 2009 vide **Oyugis Resident Magistrate's Court Succession Cause No. 18 of 2009** be annulled. The estate of the deceased consists of a parcel of land known as **Kabondo/Kodhoch West/21** which measures 6 hectares or thereabout (15 acres). There was no dispute by either of the parties that the said parcel of land exceeds a value of Kshs. 100,000/=.

**Section 48** of the **Law of Succession Act** limits the jurisdiction of magistrate's court in probate and administration cases to estates whose value does not exceed Kshs. 100,000/=. It is therefore apparent that the Oyugis Senior Resident Magistrate's court did not have jurisdiction to grant the letters of administration. In judicial proceedings jurisdiction is the bedrock of any decision. Without it, any judgment and/or order made by a court cannot stand and is a nullity. Consequently, I annul the aforesaid grant but make no orders as to costs. Having reached the above conclusion I need not consider all the other issues that were raised by the parties herein as that would be a mere academic exercise.

**DATED, SIGNED AND DELIVERED AT KISII THIS 11<sup>TH</sup> DAY OF JUNE, 2010.**

**D. MUSINGA**  
**JUDGE**  
**11/6/2010**

Before D. Musinga, J.

Mobisa – cc

Mr. Ogwen for Mr. Bana for the Applicant

Respondent – present

**Court:** Ruling delivered in open court on 11<sup>th</sup> June, 2010.

**D. MUSINGA**  
**JUDGE**