



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

**Succession Cause 32 of 1999**

**GEORGE KIPTANUI KANGOGO ..... PLAINTIFF.**

**VERSUS**

**JANE JEPKERING RUTTO ..... DEFENDANT.**

**R U L I N G.**

On the 26<sup>th</sup> day of March, 2009, I heard the application for revocation of grant herein and at the end of it all revoked the grant. I reserved my reasons for doing so which I now give. But first the background.

By an application dated 28<sup>th</sup> September, 2007, by way of summons for revocation or annulment of grant, pursuant to the provisions of sections 76 (a) (b) and (C) of the Succession Act and rule 44(1) of the Succession Rules, the applicant seeks orders.

(1) That the grant be revoked.

The application is based on the grounds:-

1. That the proceedings to obtain grant were defective in substance.
2. That the grant was obtained fraudulently by the concealment from the court of material facts.

The application is predicated upon the affidavit of STANLEY KIBIWOT KANGOGO sworn on the 3<sup>rd</sup> day of September, 2007.

On behalf of the objector, it was argued that George Kiptanui Kangogo died on 16<sup>th</sup> February, 1993. A grant of letters of administration was made to Jane Jepkering Rutto and Jane Kabilo on 4<sup>th</sup> day of May, 1999.

That the said grant was obtained by concealment of material facts. Among other things, the petitioner failed to disclose to the court that at the time of his death the deceased had two wives namely, **JANE CHEBOR KANGOGO** and **JANE KABILO KANGOGO** who according to law, would have

petitioned for and given the grant instead of the respondent herein who is merely a daughter-in-law to the deceased.

The petitioner also failed to disclose to the court that at the time of his death the deceased left behind eleven (11) children – six from the 1<sup>st</sup> house of Jane Kabilo Kangogo and 5 from the second house of Jane Chebor Kangogo.

The petitioner equally failed to disclose to the court that the deceased had some other assets, namely, 30 acres of land at Kibomet Farm within Kitale.

On behalf of the respondent, it was conceded that the estate belonged to her father-in-law, George Kiptomoi Kangogo. That there are two widows of the deceased, namely, Jane Kabilo Kangogo and Jane Chebon Kangogo who would have taken letters of administration.

Section 66 of the Succession Act provides a general guide in hierarchical order of the persons who would be entitled to administrator the estate of the deceased (see In the Matter of the Estate of Charles Mungai Ndungu (deceased) of Kiambu District Nairobi HCSC. No. 2398 of 2002 and In the Matter of the Estate of Gichia Kabiti (deceased) Nairobi HCSC No. 2559 of 2004.)

Being a daughter in law the respondent falls for behind the two widows of the deceased in hierarchical order prescribed by section 66 of the succession.

For these reasons I am inclined to revoke the grant, which I hereby do.

The two widows of the deceased are at liberty to file application for fresh grants.

Dated and delivered at Kitale this 4<sup>th</sup> day of June, 2009.

**N.R.O. OMBIJA.**

**JUDGE.**

N/A for applicant.