



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KERICHO

Succession Cause 62 of 2001

1. Family Law Division
2. The Law of Succession Act Cap.160 Laws of Kenya
3. Subject of main Cause
 - i) Revocation of grant suo moto by court.
 - a) Male adult aged 85 years old on 10.4.85 at Kiboybei.
 - b) P&A succession Cause No.7 of 2001 filed on 24th January 2001 P&A Succession Cause No.62 of 2001 filed on 2nd May 2001.
 - c) Death certificate

Two

 - i) P&A Succession Cause No.7 of 2001 issued 8th January 2001.
Deceased aged 85 years old – 10.4.85
 - ii) P&A Succession Cause No.62 of 2001 issued 14.6.00.
Deceased aged 93 years. Died 26.9.86
 - d) Two grants issued.
 - P&A 7/01 – 29.10.01 (Ondeyo J.)
 - P&A 62/01 – 30.7.01 (Ondeyo J.)

On 22.10.09 form P&A /69 being notice to revoke grant issued to both parties.
 - e) Parties conceded that grant P&A 62/01 be revoked.
4. Held;
Grant P&A 62/01 revoked.
5. Case Law.
6. Advocate.
 - D. O. Akinyi advocate instructed by M/S Akinyi & Co. Advocates for the Objector; present.
 - J. K. Kirui advocate instructed to hold brief for M/S Bett & Co. Advocates for Petitioners/Applicants; present.

IN THE MATTER OF THE ESTATE OF THE LATE KIPLANGAT A. KIKWAI – DECEASED

AND

NEHEMIAH CHERANGUT A. LANGAT -1ST PETITIONER

JAMES KIBET A. LANGAT -2ND PETITIONER

RULING

Revocation of grant *Suo Moto* P&A FORM 69 (Rules 44(5)).

I. Background

1. This court notified the parties that it intends to revoke the grant in P&A.62/01 and P&A 7/01 *Suo Moto*.
2. The deceased a male adult allegedly aged 85 years old on 10th April 1985 at Kiboyben.
3. A Succession Cause was filed being No.7/01 on 24th January 2001 another subsequent Cause No.62/01 was filed on 2nd May 2001 by a different party.
4. On perusal of the two causes it transpired that there were two different death certificates in file P&A Succession Cause 7/01 a death certificate was issued on 8th January 2001. The deceased was aged 85 years old having died on 10th April 1985.
In the second file P&A Succession Cause No.62/01 issued on 14th June 2000 the deceased was aged 93 years old having died on 26th September 1986.
6. Two grants was issued.
In P&A Succession Cause No.7/01 Temporary letters of grant was issued on 29th October 2001 (*Ondeyo J*) to the first party and another. In P&A Succession Cause No.62/01 temporary letters of grant was issued on 30th July 2001 (*Ondeyo J*) to another second party.
7. The advocate for the second party was unable to trace their file as of 22nd October 2009.
8. By 23rd November 2009 both parties conceded that P&A Succession Cause No.62/01 having been filed later could not stand.

II: Opinion.

9. This court hereby revokes grant P&A 62/01 as having been issued in error. The Principal Registry having confirmed to this court on P&A 30 Form that no other grant was in existence for the deceased persons. If this was so, then the error in issuing a subsequent grant would not have occurred.

10. I hereby rule that under **rule 44(5)** *Suo Moto* that the file P&A 62/01 Succession Cause be and is hereby revoked.

Dated this 26th day of November 2009 at Kericho.

M. ANG'AWA

JUDGE

Advocates.

- D. O. Akinyi advocate instructed by M/S Akinyi & Co. Advocates for the Objector; present.
- J. K. Kirui advocate instructed to hold brief for M/S Bett & Co. Advocates for Petitioners/Applicants; present.