



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**  
**Succession Cause 662 of 1991**

**IN THE MATTER OF THE ESTATE OF LOPEYOK SEROWN (DECEASED)**

**RULING**

Before me is summons for revocation dated 28<sup>th</sup> October, 2003 under Section 76 of the Law of Succession Act (Cap 160 Laws of Kenya) and under Rule 44(1) of the Probate and Administration Rules.

The Objector Zahra Sambu Aden the wife of the deceased seeks revocation of Letters of Administration made on 2<sup>nd</sup> September, 1991 be revoked.

Before I consider the said application, I must place on record that the Objector had earlier filed summons for revocation dated 22<sup>nd</sup> December, 1992. The affidavit in support sworn on 22<sup>nd</sup> December 1992 by the applicant is similar in most of its contents to the affidavit sworn by the Objector on 28<sup>th</sup> October, 2003 in support of the application before me.

On 29<sup>th</sup> June, 1995 the parties filed a consent to withdraw her objection vide consent letter of 23<sup>rd</sup> June, 1995.

An agreement dated 28<sup>th</sup> June, 1995 duly signed by the Objector and the Administrator Pulli Serown Suleiman was also filed in the court on 30<sup>th</sup> January, 1996 in support of summons for confirmation. The same agreement is also annexed to the replying affidavit sworn by Pulli Serown the Administrator/Respondent on 19<sup>th</sup> January, 2004 in response to the present summons for revocation.

I do note that the Objector has totally ignored and concealed the existence of the said agreement. As per the agreement the Objector has accepted her share of Shs.1.3 million from the estate. The balance of the agreed sum was to be paid after a dispute by a third party was resolved.

She has not given any details of her fear of dissipation or waste of the estate property. Thus I shall be in difficulty to grant her the summons for revocation.

However, under the powers vested in me under Section 47 of the Law of Succession Act and Rule 73 of the Probate Administration Rules, I do direct that the Administrator/Respondent shall file an affidavit to show the position of Shs.650,000 placed in fixed deposit as per paragraph 3 and 4 of the agreement relied and produced by him.

I must note that the summons was directed to be heard ex-parte by me as the Objector and/or her counsel was not in attendance despite the fact that the date of hearing was fixed by her counsel.

I shall not make any order as to costs.

Dated and signed at Nairobi this 27<sup>th</sup> day of February, 2007.

**K.H. RAWAL**

**JUDGE**

**27.2.07**