



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
Succession Cause 382 of 1998**

IN THE MATTER OF THE ESTATE OF THE LATE STEPHEN KIBET ARAP

CHUMO - DECEASED

EDWIN BETT..... 1ST APPLICANT

DAVID BETT 2ND APPLICANT

FRANCIS BETT 3RD APPLICANT

BETTY BETT 4TH APPLICANT

VERSUS

MARY CHEPKIRUI CHUMO

(ADMINISTRATRIX OF THE ESTATE OF THE DECEASED)RESPONDENT

RULING

Edwin Bett, David Bett, Francis Bett and **Betty Bett**, the beneficiaries of the deceased estate instituted this application dated 30th March 2006. They are seeking for the revocation of the confirmed grant, which was issued by this court on 25th November 2005. The application is based on the grounds that there was material misrepresentation and withholding of material facts to the court when the grant was confirmed to wit;

- q *Some beneficiaries who purportedly signed the consent namely; **Rose Chepkemoi** and **Peter Kipkoech** are deceased and they died in 1982 and the year 2002 respectively.*
- q *The consent of the beneficiaries which was filed under the provisions of the P & A Rules, misled the court into confirming the grant.*
- q *Secondly, some of the beneficiaries of the deceased namely; **Betty Bett** who survived one of the sons of the deceased was left out of the schedule of distribution; and*
- q *Lastly, the distribution of the assets is against the letter and spirit of the law.*

When this matter came up for hearing under certificate of urgency, I directed that all the beneficiaries as well as the respondent be served with the application for revocation. I am informed all the beneficiaries were duly served as per the affidavit of service filed in court, however there was no response by the respondent and this application was not opposed.

I have considered the matters raised in the application especially the allegations of fraud and forgeries of the documents that were presented to court the basis upon which the grant was confirmed. This coupled with the fact that some beneficiaries were not provided for and the fact that the estate of the deceased was not distributed according to the provisions of the law are sufficient reasons for this court to revoke the confirmed grant.

In order to secure the interest of all the beneficiaries and in the interest of justice the grant of letters that was confirmed on 25th November 2005 and all the consequential transactions pursuant thereto are revoked.

Since the petitioner, *Mary Chepkurui Chumo*, the widow of the deceased is still ranked in priority, I direct that another grant be issued jointly with the Petitioner and one of the sons; *Edwin Bett* who shall proceed to apply for confirmation either jointly or severally.

It is so ordered.

Ruling read and signed at Nakuru on 28th July 2006.

MARTHA KOOME

JUDGE