



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**SUCCESSION CAUSE NO. 54 OF 2001**

**IN THE MATTER OF: THE ESTATE OF UMI OMAR MOHAMED ALSO KNOWN AS UMI MOHAMED ALI-AMINI (DECEASED)**

**RULING**

This application is for the Revocation of grant issued in this court on 1.3.2001 to

1. Abdalla Omar Mohamed
2. Ahmed Omar Mohamed.

The grounds relied on are that the grantees did not seek the consent of the applicant (other brother) to the application and most serious of all the signature of the applicant was forged meaning they did not disclose to him that they were making the application and that they were prepared to commit the offence of forgery for the purpose. This was also cheating the court and it can be regarded as contempt of court. The applicant swears that he was never approached to sign the consent and that the signature appearing in Form 38 against his name is not his. It is a forgery.

The provisions of section 76 Succession Act sets out the grounds upon which a grant can be revoked as follows:

Quote:

- (a) "that the proceedings to obtain a grant were defective in substance.
- (b) that the grant was obtained fraudulently by making of a false statement or by concealment from the court of something material to the case.
- (c) That the grant was obtained by means of untrue allegation of a fact essential on point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently.
- (d) .....
- (e) .....

" I am satisfied that the application is entitled to orders sought. I therefore allow the application and grant orders prayed for in the application. Costs shall be paid by respondents jointly and severally.

**Dated this 28th day of June 2002.**

**J. KHAMINWA**

**COMMISSIONER OF ASSIZE**

**Presence of Mr. Kiarie and members of the same family**

**J. KHAMINWA**

**COMMISSIONER OF ASSIZE**