



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT SIAYA**

**MISC. SUCCESSION CAUSE NO. E026 OF 2021**

**IN THE MATTER OF THE ESTATE OF LATE SHADRACK MULANGO OWENGA (DECEASED)**

**WILKISTER OKINYO MOLA.....APPLICANT**

**VERSUS**

**MESHACK OCHIENG MOLO.....ADMINISTRATOR/RESPONDENT**

**RULING**

1. The Application subject of this ruling is dated 28<sup>th</sup> October 2021 filed before Kisumu High Court. The same seeks for revocation of grant issued to the Respondent Meshack Ochieng Molo on 19/8/2020 in respect of land parcel No. Siaya/Mahaya/3756 by **Bondo PM'S Court in Succession Cause No. 195/2019** in respect of the estate of the late Shadrack Mulango Owenga.
2. The matter was then by an order made on 1/11/2015 by the Hon. J. Kamau J of Kisumu High Court, transferred to this court because of geographical jurisdictional issues.
3. When counsel for the applicant appeared before me this morning and sought for directions, the court brought to his attention the provisions of the Law of Succession Act and the Magistrate's court Act that confer jurisdiction on the magistrate's court to revoke grants issued by the same court unlike previously when only the High court had jurisdiction to revoke grants issued by the lower court.
4. Ms. Omeda has now appeared on behalf of Mr. Omulama and confirmed the legal position.
5. **Section 23 of the Magistrate's Act** is clear on the jurisdiction of the magistrate's Court in succession matters and the applicant's counsel ought to have known this before engaging in filing such an application in Kisumu High Court then the Kisumu High Court had to transfer the matter to this court which is now being asked to return the matter to Bondo PM's court.
6. As this court is devoid of the jurisdiction to revoke a grant issued by the Magistrates' court other than on appeal or where the pecuniary jurisdiction exceeds that of the magistrate's court, I find this application incompetent, the same is dismissed. Let the applicant file an appropriate application before the relevant court for consideration.
7. Orders accordingly.
8. This file is closed.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 17TH DAY OF NOVEMBER, 2021**

**R.E. ABURILI**

**JUDGE**