



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KIAMBU**

**SUCCESSION CAUSE NO. 94 OF 2018**

**IN THE MATTER OF THE ESTATE OF HARUN RACHO KATHETHA Alias RACHO KATHETHA HARUN Alias RACHO KATHETHA HARUN Alias RACHO KATHETHA (DECEASED)**

**1. PIUS MACHINA RACHO**

**2. JOHN MWAURA RACHO**

**3. CATHERINE WANJIRU RACHO**

**4. RUTH NYAMBURA RACHO**

**5. LYDIA NGINA THIONG'O**

**6. MARY WANJIKU RACHO.....OBJECTORS/APPLICANTS**

**VERSUS**

**MOSES MUREITHI RACHO.....PETITIONER/RESPONDENT**

**RULING**

**1. MOSES MUREITHI RACHO** petitioned for grant of probate of written Will in this cause and the grant was issued dated 12<sup>th</sup> February, 2019.

2. Before court are two applications. One is dated 11<sup>th</sup> September, 2019 for confirmation of the grant. The other is dated 24<sup>th</sup> September, 2019 which seeks revocation of the grant.

3. The court on 27<sup>th</sup> November, 2019 ordered both applications be heard by affidavit evidence and by submissions. On receiving those affidavits and written submissions, I gave today's date for Ruling. I have however formed the opinion that a substantive ruling cannot be issued in the absence of this Court receiving *viva voce* evidence. This is because the application for revocation of grant is sought on the ground that the written Will presented in this cause is forgery and that accordingly, the grant obtained was fraudulent. In this Court's view, such allegation cannot be determined on affidavit evidence. It is essential for the court to receive *vivo voce* evidence.

4. In view of the above at the reading of this Ruling, a date for receiving the *viva voce* evidence will be fixed.

5. Orders accordingly.

**RULING DATED AND DELIVERED AT KIAMBU THIS 2<sup>ND</sup> DAY OF DECEMBER, 2021**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant: **Maurice**

For Objectors : Ms. Namisi

For Petitioner : Mr. Gitau

**COURT**

Ruling delivered virtually.

**MARY KASANGO**

**JUDGE**