



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

SUCCESSION CAUSE NO. 12 OF 2017

IN THE MATTER OF THE ESTATE OF TAPRANDICH KIMUGE (DECEASED)

BEATRICE JEBIWOT.....PETITIONER/RESPONDENT

-VERSUS-

MICAH KIMAIYO CHERONO.....1ST APPLICANT

HARUN A.K.E. KENEL.....2ND APPLICANT

SALINA JEPKOSGEI KIPROTICH.....3RD APPLICANT

REBECCA JEROTICH CHERONO.....4TH APPLICANT

GLADYS J. CHERONO.....5TH APPLICANT

BENUSA CHEPKEITANY CHESEREM.....6TH APPLICANT

RULING

[1] The Notice of Motion that is the subject of this Ruling is the one dated **18 July 2018**. It was filed herein on **19 July 2018** for orders that the Petitioner/Respondent, **Beatrice Jebiwot**, and all the persons named as beneficiaries in the Petition filed by her, be investigated for the false allegation that they are the children of the deceased. The application was premised on the ground that the Respondent and the purported beneficiaries have forged documents namely Certificates of Birth purporting to be the children of the deceased, **Taprandich Kimuge Cheronno**, when in truth they are not; and that a complaint to that effect has already been filed at **Naiberi Police Station** and investigations are ongoing. It was therefore the contention of the Applicants that it would only be prudent that the report of the said investigations be filed herein to enable the Court make a just and fair determination in respect of their earlier application for revocation of the Grant of Letters of Administration Intestate that was issued herein to the Respondent.

[2] The application was premised on the affidavit of **Micah Kimaiyo Cheronno**, annexed thereto, sworn on **18 July 2018**, to which he annexed copies of what he contends to be forged Certificates of Birth for the Respondent and two others, purporting that **Salome Taprandich Kimuge** was their mother. He likewise furnished the Occurrence Book No. in respect of the complaint that he filed at **Naiberi Police Station**, being **OB No. 08/26/06/2018**.

[3] The application was opposed by the Respondent vide the Grounds of Opposition dated **23 July 2018**. According to her, the application is frivolous, vexatious, incompetent, fatally and incurably defective; and that it amounts to nothing other than an abuse of the court process. She further contended that the Court lacks the jurisdiction to either entertain the matter or issue the orders sought.

[4] Directions were given herein that the application be canvassed by way of written submissions. The record shows that the only written submissions on record, in respect of the subject application, were filed by Counsel for the Applicants. The written submissions by the Respondent to which the attention of the Court was drawn, were filed on **18 June 2018** in respect of the application for revocation of grant. That application is yet to be urged. I note too that although Counsel for the Applicants relied on two authorities, namely: **Criminal Appeal No. 181 of 2013: Caroline Wanjiku Ngugi vs. Republic [2015] eKLR** and **Criminal Appeal No. 181 of 2013: Joseph Mureithi Kanyita vs. Republic**, no specific connection was made between the authorities and the instant application beyond the fact that they involved allegations of fraud.

[5] Thus, having given due consideration to the application, the Supporting Affidavit and the written submissions filed by the Applicants' Counsel, there is no gainsaying that serious allegations of forgery have been made herein against the Respondent, namely, that she fraudulently obtained Grant of Letters of Administration Intestate in respect of the estate of the deceased, **Taprandich Kimuge**. The

applicants have further demonstrated that a complaint to that effect was filed at **Naiberi Police Station** for investigations. All they now seek before their application for revocation of grant can be disposed of is that the police report on the result of investigations into their complaint be made to the Court.

[6] In the result, I find merit in the application and would allow it with no order as to costs. It is ordered therefore that:

[a] The **OCS Naiberi Police Station** be and is hereby ordered to file herein his report in respect of the outcome of the investigations carried out into the complaint filed by the Applicants against the Respondent in respect of the administration of the estate of the late **Taprandich Kimuge**;

[b] The said report to be filed within 15 days from the date hereof.

Orders accordingly.

SIGNED, DATED AND DELIVERED AT ELDORET IN OPEN COURT THIS 16TH DAY OF JULY 2019

OLGA SEWE

JUDGE