

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

SUCCESSION CAUSE NO. 43 OF 2006

IN THE MATTER OF THE ESTATE OF ALFRED WANDANDA WANGANYA (DECEASED)

RULING

1. What is for determination herein is the summons for revocation of grant dated 20th July 2018. I have read through the entire record, that is to say the petition, the confirmation proceedings, the summons for revocation and the rival affidavits, and the judgment in ELC No. 195 of 2015.

2. I note that the parties hereto opted for the easy way out, written submissions, yet the issues are convoluted and required to be determined by way of oral evidence. In highly contested matters, such as the present one, disposal should be by way of *viva voce* evidence. The averments of the parties made in their respective affidavits ought to be subjected to cross-examination for all the contested issues to come out clearly. Parties and counsel owe it to the court to do everything to bring out all the issues, and that best happens when some of these matters are subjected to oral hearing, where the court can seek clarifications from the parties if need be.

3. I accordingly hereby direct that the said summons shall be disposed of by way of oral evidence to be adduced on dates to be given at the delivery of this ruling.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 20TH DAY OF SEPTEMBER 2019

W. MUSYOKA

JUDGE