



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MIGORI

MISC. SUCCESSION CAUSE NO. 283 OF 2015

(Consolidated with Misc. Application No. 20 of 2017)

IN THE MATTER OF THE ESTATE OF CHACHA MACHAGE (DECEASED)

BETWEEN

DANIEL MACHAGE CHACHA.....OBJECTOR/APPLICANT

VERSUS

PETER MAGABE MWITA.....PETITIONER/RESPONDENT

RULING

1. By the Chamber Summons dated 27/07/2017 and filed on 31/07/2017 the Applicant herein applied for the revocation of the grant of the representation in respect of the Estate of **Chacha Machage** (hereinafter referred to as '**the deceased**') which was issued to **Peter Magabe Mwita**, the Respondent herein and who is the Petitioner on 09/11/2015. The Petitioner described himself as a grandson to the deceased.
2. That grant was eventually confirmed by this Court on 06/03/2017 and the sole estate property namely **Nyabasi/Bomerani/402** was wholly transferred to the Petitioner.
3. The Applicant who is one of the three children of the deceased contends that the Petitioner obtained the grant fraudulently as he is not in any way related to the deceased. He cited the entire proceedings as fatally defective and the introductory letter by the Chief as a forgery. The application was served upon the Petitioner and despite given ample time to file his response and submissions in the face of the very grave allegations nothing came forth. The application therefore stands unopposed.
4. With such state of affairs, the application must succeed. To that end the following orders do hereby issue: -

(a) The Grant of Letters of Administration made to Peter Magabe Mwita on 09/11/2015 and the resultant Certificate of Confirmation be and are hereby revoked and a Fresh Grant shall issue in the name of DANIEL MACHAGE CHACHA.

(b) The Administrator shall file and serve an application for confirmation of the fresh grant within 30 days of its issuance. The application shall be fixed for hearing on 06/11/2019.

(c) The Petitioner shall bear the costs of the application.

Orders accordingly.

DELIVERED, DATED and SIGNED at MIGORI this 19th day of September 2019.

A. C. MRIMA

JUDGE

Ruling delivered in open Court and in the presence of:

Mr. Kwanga Mboya Counsel instructed by Messrs. Kwanga Mboya & Company Advocates for the Applicant.

Mr. Kerario Marwa Counsel instructed by Messrs. Kerario Marwa & Company Advocates for the Respondent.

Evelyne Nyauke – Court Assistant