



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BUSIA

PROBATE & ADMINISTRATION NO. 15 OF 2010

IN THE ESTATE OF: FRANCIS OMUZEE KHASINDU.....DECEASED

BETWEEN

PETER CHURCHIL LWAKALE.....PETITIONER/ RESPONDENT

AND

MARGARET AJODE OGUWANGI.....APPLICANT

RULING

1. **Margaret Ajode Oguwangi**, the applicant herein filed an application for revocation of the grant issued to **Peter Churchil Lwakale** by an application dated 28th February 2017. It is premised on the following grounds:

a) That she is the legal representative of Silvanus Khasindu Oguwangi who had an interest in land parcel number SOUTH TESO/AMUKURA/465.

b) That the respondent left out other beneficiaries.

2. The application was served on the counsel on record for the respondent. They received the notice under protest and indicated that they ceased acting for the petitioner/respondent. However, on checking the record, there was no notice to cease acting that was filed. The firm of Mukisu & Company Advocates are therefore still on record.

3. The application was not responded to and it proceeded undefended.

4. Section 76 (b) of the Law of Succession Act provides:

A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion—

(b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;

The applicant has demonstrated that the petitioner/respondent concealed from the court some material facts relevant to this succession cause.

5. After a careful consideration, I find that the application is merited. The same is allowed and the grant revoked.

6. The applicant and the respondent herein are appointed co-administrators. Costs be in the cause.

DELIVERED and SIGNED at BUSIA this 3rd day of December, 2019

KIARIE WAWERU KIARIE

JUDGE