



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**SUCCESSION CAUSE 615 OF 2013**

**IN THE MATTER OF ESTATE OF M'MUCHEKE MBOGITA**

**MOFFAT KIMATHI SAMWEL.....PETITIONER**

**VERSUS**

**JAMES MURUNGI MAINGI.....RESPONDENT**

**RULING**

Application dated 29.8.2018 was brought under certificate of urgency seeking revocation of confirmed grant made on 7<sup>th</sup> August 2018 devolving the estate to James Murungi maingi wholly.

From proceedings made on 25<sup>th</sup> July 2017 it was submitted by Mr. Mwirigi advocate that the petitioner and his surviving brother are grandchildren of the deceased from a daughter who is deceased and that the applicant James Muringi Maingi was also a grandson of the deceased from another daughter and the deceased also had a surviving daughter.

On that account grant made to Moffat Kimathi Samwel and confirmed in a very short span of less than one month before statutory period expired was revoked on 21.5.2018.

Parties were granted time to file application for confirmation and it was only James Murungi Maingi who filed.

The summons for confirmation was filed but petitioner/1<sup>st</sup> Administrator didn't respond and on 7.8.2018 grant was confirmed devolving estate to applicant James Murungi.

In consideration of submissions by Mr. Mwirigi Advocate for applicant on 25.7.2017 and 21.5.2018 this court finds that applicant James Murungi is not the only dependant and therefore the estate should be devolved to Moffat Kimathi Samwel, James Murungi Maingi, Godfrey Kithinji and the alleged daughter of the deceased if any.

In event none is identified the portion that is meant for deceased alleged daughter to be shared by the 3 grandsons equally.

No orders as to costs.

**HON. A.ONG'INJO**

**JUDGE**

**RULING SIGNED, DELIVERED AND DATED THIS 8<sup>TH</sup> DAY OF NOVEMBER 2018.**

**In the presence of:**

C/A: Penina

Petitioner:- N/A – Mr. Ojiambo Advocate

Objector:-Present in person

Mr. Mwirigi Advocate for objector – N/A

**HON. A.ONG'INJO**

**JUDGE**