



**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**SUCCESSION CAUSE NO. 606 OF 1992**

**IN THE MATTER OF THE ESTATE OF JOSEPH ODONGO OWEGI (DECEASED)**

**RULING**

1. A grant of probate with written Will was issued on 4/8/1992 to the executrix herein Leonida Lyoshi Owegi. However, no action was taken to have the grant confirmed until 25/6/2015 when the said grant was revoked for want of prosecution since time had lapsed without any action being taken. Later the executrix who was all along under the wrong impression that her advocate the late Simami had obtained the certificate of confirmation of the grant, discovered that the same had been revoked.

2. She therefore pleaded with the court through a notice of motion dated 13/6/2017 but filed in court on 22/6/2017 to reinstate the annulled and or revoked grant by setting aside its orders of 25/6/2017. I have considered application herein filed under Section 1A and 3A of the Civil Procedure Act, Order 51 rule 1 and Order 12 rule 7 of the Civil Procedure Rules 2010 Cap 21 Laws of Kenya.

3. The applicant blames her counsel who unfortunately is dead for not taking action as required in law. According to her, the matter was finalized after getting the grant. As a lay person, she would not have known that there was another step remaining after obtaining a grant of probate with written Will. In the interest of justice I will allow the application in terms of prayer one on condition that the executrix do file an application for confirmation within 30 days from the date of this ruling in default, the grant shall remain revoked.

Order accordingly.

DATED AND DELIVERED AT NAIROBI THIS 17<sup>TH</sup> DAY OF JULY, 2017.

**J.N. ONYIEGO (JUDGE)**