



REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE NO. 425 OF 1998
IN THE MATTER OF THE ESTATE OF
HENRY OLOO OMOLLO (DECEASED)

BETWEEN

SUSAN OGUTU OLOO 1ST APPLICANT

LUCIA ABAJA OLOO 2ND APPLICANT

JOYCE OLOO 3RD APPLICANT

AND

DORIS ODINDO OMOLOPETITIONER/ADMINISTRATOR

RULING

1. The deceased, **HENRY OLOO OMOLO**, died on 19th August 1998. His wife and widow, **DORIS ODINDO OMOLO** (“Doris”) took out a petition for letters of administration intestate. The grant of letters of administration intestate was issued to her on 22nd February 1999 and confirmed on 12th October 1999.

2. By Summons for revocation dated 7th March 2011, **SUSAN OLOO, LUCIA ARAJA OLOO** and **JOYCE OLOO** applied to revoke the grant on grounds that Doris had failed to disclose that they were beneficiaries. By a joint affidavit filed in support of the summons, claimed that they resided on part of **NORTH SAKWA/NYAWITA/842** as their ancestral home which they had been given by their late husband, **RAPHAEL OLOO OTIENG'A** and had lived there throughout and were likely to be disinherited if the prayers were not granted.

3. Doris took the position that the land they are claiming was not part of the ancestral land as it was purchased by the deceased when the applicants’ husband also purchased a neighbouring parcel after they had moved from their ancestral home. She testified that the applicants’ matter had been raised and resolved at the village and before the District Officer and that she was ready and willing to allow them to have 1 acre of land where they resided. She further stated that the applicants’ families had been catered for by her father in law and that their families were living on the land left by their deceased husband.

4. This matter was scheduled to be heard today, 10th October 2016, by viva-voce testimony but the applicants did not appear. I rejected the application for adjournment by their counsel, Mr Yogo, on account of the age and history of the matter. Mr Yogo then proceeded to submit that the court should

give the applicant part of the property that the petitioner was not contesting and which was admittedly occupied by the applicants.

5. Doris testified on oath that she had no objection to the request and that the applicant could be allowed to have 1 acre of land where they reside. Taking into account that the applicants had been provided for by their husband through provision of other land, I allow the summons for revocation only to the extent that **SUSAN OGUTU OLOO, LUCIA ARAJA OLOO** and **JOYCE OLOO** shall have a life interest in 1 acre of **NORTH SAKWA/NYAWITA/842** for the rest of their lives and upon the death of the last of them the interest shall revert to **DORIS ODINDO OMOLO**. For the avoidance of doubt, the 1 acre shall as far as possible be within the area they occupy.

6. Accordingly, the certificate of confirmation dated 12th October, 1999 is hereby revoked and re-issued save with the provision that 1 acre of **NORTH SAKWA/NYAWITA/842** shall be held by **SUSAN OGUTU OLOO, LUCIA ABALA OLOO** and **JOYCE OLOO** for their life.

7. There shall be no order as to costs.

DATED and DELIVERED at KISUMU this 10th day of October, 2016

D. S. MAJANJA

JUDGE

Mr Yogo instructed by Otieno, Yogo, Ojuro and Company Advocates for the applicants.

Mr Otongo instructed by Mwangambo and Okonjo Advocates for the petitioner/respondent.