

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

SUCCESSION CAUSE NO. 584 OF 2011

IN THE MATTER OF THE ESTATE OF MUTILE MUOKI MATHYAKA – DECEASED

DAVID MUSEMBI MUOKIPETITIONER/APPLICANT

RULING OF THE COURT

1. The Notice of Motion application before the court is dated and filed herein on **17th May, 2016**. The application seeks the following orders;

*i. That this court be pleased to set aside the order made on **21st July, 2015** in Succession Cause No. 584 of 2011 dismissing the Petitioner's/Applicant's cause hearing for want of prosecution.*

ii. That upon grant of prayer 1 herein above this court be pleased to reinstate the Petitioner's/Applicant's Succession Cause herein for hearing and final disposal.

iii. That costs of this application be in cause.

2. The applicant's case as contained in the Supporting Affidavit sworn and filed on **17th May, 2016** is that he is the Petitioner and the son of the late **Mutile Muoki Mathyaka** who died on **25th July, 1987**. After receiving a Notice from court for dismissal of the Succession Cause herein, he has realized that it is his duty to pursue the finalization of the Succession Cause herein until its end. The applicant is now eager and anxious to have the Succession Cause herein finalized to its logical conclusion and therefore urges this court to allow him pursue the same.

3. I have looked at the file. The Grant herein was revoked on **2^{1st} July, 2015**. However, the Notice to show cause gave a date between **6th July to 2^{5th} July, 2015**. That was not specific and cannot found an action to revoke the Grant.

4. I herewith allow the application and reinstate the Grant. I also direct the Petitioner to have the Grant Confirmed within ninety (90) days from to date.

Orders accordingly.

DATED AND DELIVERED AT MACHAKOS THIS 15TH DAY OF NOVEMBER, 2016.

E. OGOLA

JUDGE

In the presence of:

Petitioner present in person

Court Assistant – Mr. Munyao