



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

PROBATE AND ADMINISTRATION DIVISION

SUCCESSION CAUSE NO. 3166 OF 2005

IN THE MATTER OF THE ESTATE OF MARGARET MUGA OMORI (DECEASED)

FLORENCE PAMELA ACHIENG' OMORI1ST APPLICANT

BOAZ BRYAN OMORI2ND APPLICANT

- Versus -

DIXON OCHIENG OMORIRESPONDENT

R U L I N G

1. Florence Pamela Omori has filed this summons for revocation of grant dated 16th December 2013 brought under **Section 76 law of Succession Act** and **Rules 44(1), 49, 59 and 73 of Probate and Administration Rules**. In the Summons the Applicant seeks for the revocation of the Grant of Letters of Administration to the intestate Estate of Margaret Muga Omori, issued and confirmed to Dixon Ochieng Omori on 28th November 2006.

2. The Summons was grounded on allegations that the Grant was obtained fraudulently by making of a false statement and concealment from the court of material facts to the case. That the Administrator failed to include the Estate of the late Edwin Opiyo Omori as beneficiaries.

3. The Summons is supported by the affidavit of Florence Pamela Omori (hereinafter the first Applicant) and her son Boaz Brian Omori (hereinafter the second Applicant) sworn on 16th December 2013. The Applicant avers that she is the widow of Edwin Opiyo Omori and that the second Applicant and Jeremiah Oreta Omori are their adult sons. She also avers that the Respondent Dixon Ochieng Omori was a son of the deceased and brother of Edwin Opiyo Omori also deceased.

4. The Applicant deponed that at the time of death the deceased left behind property known as L.R. No. 1160/154/2 in Karen, which was shared among the six children of the deceased leaving out the estate of Edwin Opiyo Omori who had predeceased her as follows:

Dixon Ochieng Omori 0.400 hectares

Uhuru Omori Kennedy 0.4000 hectares

Diana Alice Ochola

Lovisa Trufosa Ongare 0.400 hactares

Rose Akinyi Omori to share equally

Dixon Ochieng Omori

George Podo Omori 0.6688 Hactares which is the family home to share equally.

The Applicants deponed that they were not served nor were they made aware of the proceedings in the issuance and confirmation of grant. Further that all the beneficiaries of the above properties have since sold their portions after distribution, except for the portion on which stands the family home.

5. The Summons was duly served upon the lawyers on record for the Administrator but they did not file a response nor come to court. One beneficiary Uhuru Kennedy Omori replied in person and served the Advocate for the Applicant. He states that the Administrator has since demised and that the only remaining property is indeed the family home where he resides with his family and looks after George Podo, their mentally challenged brother.

6. He proposes that George Podo and himself retain the half acre comprising of the family house and the remaining one acre be given to the Estate of his brother Edwin Opiyo Omori who were left out in the initial distribution.

7. From the foregoing it is my view that nothing is to be gained by revoking the grant since this application is not contested.

8. In the premise I order as follows:

i. The Administrator having demised, the court on its own motion hereby appoints Uhuru Omori Kennedy as the Administrator of the Estate of Margaret Muga Omori in place of Dixon Ochieng Omori.

ii. The court adopts the proposed distribution of the net estate as put forward by Uhuru Omori Kennedy.

iii. One acre of L.R. No. 1160/708 to go to estate of Edwin Opiyo Omori. The remaining ½ acre together with the family house to go to George Podo Omori. It shall be registered in his name and that of the Administrator to safe guard his interest therein.

iv. The certificate of grant to the estate of Margaret Muga Omori is hereby rectified accordingly.

It is so ordered.

SIGNED DATED and DELIVERED in open court this **9th day of March 2015.**

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L. A. ACHODE

JUDGE