

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 1602 OF 2011

IN THE MATTER OF THE ESTATE OF NEHEMIAH KINUTHIA KORI (DECEASED)

RULING

1. The application dated 19th January 2012 is for revocation of the grant of letters of administration intestate made in the matter on 11th November 2011 to Daniel Njuguna Kinuthia. It is alleged that the administrator concealed members of the first house of the deceased, and disclosed members of the second house only.
2. The application was served on 2nd March 2012 on the advocates for the administrator. This is as per the affidavit of service sworn on 20th March 2012 by one Benson Mombo Masaka. The administrator did not respond to the application, and there is a letter from his advocates, dated 31st May 2012, addressed to the advocates for the applicant, indicating that his advocates did not have instructions to oppose the application.
3. The fact of not contesting the application is sufficient indication to me that the facts set out in the affidavit in support of the application are true. There was concealment of important matter from the court, there was misrepresentation of facts and no doubt the administrator had acted fraudulently. All these bring the matter within the ambit of Section 76 of the Law of Succession Act, Cap 160, Laws of Kenya.
4. I am satisfied that a case has been made out for revocation of the grant made on 11th November 2011 to Daniel Njuguna Kinuthia and I do hereby make the following orders:-
 - a. **That the grant made on 11th November 2011 to Daniel Njuguna Kinuthia is hereby revoked;**
 - b. **That the orders made on 29th November 2011 confirming the said grant are hereby set aside;**
 - c. **That the certificate of confirmation of grant dated 29th November 2011 is hereby cancelled;**
 - d. **That if any transactions were done on the basis of the said certificate of confirmation of grant dated 29th November 2011, the same are hereby annulled;**
 - e. **That I appoint Joseph Kori Kinuthia and Daniel Njuguna Kinuthia administrators of the estate of the deceased and direct that a grant of letters of administration intestate of the estate of the deceased shall issue to them accordingly;**
 - f. **That the new administrators shall apply for confirmation of the grant made today in the next forty five (45) days;**
 - g. **That the matter shall be mentioned thereafter for compliance; and**
 - h. **That Daniel Njuguna Kinuthia shall pay costs of the application to the applicant.**

DATED, SIGNED and DELIVERED at NAIROBI this 2ND DAY OF OCTOBER, 2015.

W. MUSYOKA

JUDGE