



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KISUMU**  
**SUCCESSION CAUSE NO. 538 OF 2009**  
**IN THE MATTER OF THE ESTATE OF JACKSON AWITI SAO (DECEASED)**  
**AND**  
**IN THE MATTER OF AN APPLICATION FOR LETTERS OF ADMINISTRATION**  
**IN THE ESTATE OF JACKSON AWITI SAO (DECEASED)**  
**ONDU JOSEPH OKUMU.....OBJECTOR/APPLICANT**  
**VERSUS**  
**MICHAEL OBUNGE NDEGE.....ADMINISTRATOR**  
**RULING**

The deceased to whose estate these proceedings relate is Jackson Awiti Sao. A grant of Letters of Administration in respect of the estate were on 21st June 2010 issued to Michael Obunge Ndege who on 29th March 2012 applied to have the same confirmed and the entire estate comprising LR KISUMU.KOGONY/248 devolve to him.

However when Aroni J. heard the summons for confirmation on 11th May 2012 she noted that the widow of the deceased was still alive and directed that the entire estate devolve to her. A Certificate of Confirmation of grant dated 18th May 2012 was then issued to that effect. That order stated:-

**"I have considered the application. The widow is still alive. The applicant who wishes to have the deceased's property transferred to him is only but a nephew. I decline the prayer. I direct and order that the grant be confirmed but the property be transferred to the widow Joan Were Awiti."**

On 24th October 2014 the applicant herein filed a summons for annulment of the grant on the ground that the said property had been sold to his father by the deceased and that the succession cause had been done in secrecy and further that the administrator now respondent was not a son of the deceased and hence not a beneficiary.

On 23rd January 2015 I directed that the summons proceed by way of viva voce evidence and when the hearing eventually took off on 28th May 2015, the Court heard the applicant and his witness. Thereafter the Court also heard the Objector and his two witnesses. It was at the hearing that it transpired that despite Aroni J's order of 11th May 2012 the Respondent, then the Administrator, had gone ahead and

had the parcel of land forming the estate of the deceased registered in his name. This Court directed him to produce a copy of the register which now shows that he was so registered on 8th August 2014. That registration is clearly illegal. The same should be cancelled forthwith and the land parcel should be registered in the name of the deceased's widow Joan Were Awiti as ordered by Aroni J and as shown in the Certificate of Confirmation of Grant issued on 18th May 2012 a copy of which the Deputy Registrar shall transmit to the Land Registrar together with a copy of this Court's order. Any dealings in the parcel of land by the Respondent would ofcourse be illegal registration of the land in his name being illegal and any future dealings are now prohibited until further orders of this Court. Once the title deed issued to the Respondent is cancelled and the land parcel is registered in the name of Joan Were Awiti any of the parties shall be at liberty to apply for a grant of representation to the estate of Joan Were Awiti. The Respondent shall bear the costs of these summons. It is so ordered.

**Signed, dated and delivered at Kisumu this 8th day of October 2015**

**E. N. MAINA**

**JUDGE**

In presence of:-

Mr. Omondi M.M. for Objector/Applicant

N/A for Administrator

CC: Moses Okumu