



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU

SUCCESSION CAUSE NO. 474 OF 2011

**IN THE MATTER OF THE ESTATE OF ANISIA WANJIRA KANENE alias ANISIA WANJIRA
WAWERU (DECEASED)**

MOHAMED NDWIGA KITHAKA.....APPLICANT

VERSUS

LAWRENCE NJERU NDWIGARESPONDENT

RULING

This is an application for revocation of the grant issued to the respondent. It is brought pursuant to the enabling Provisions of rule 44 (3) of the Probate Administration made under the Succession Act (Cap 60 Laws of Kenya). The application is based on the applicant's affidavit in support of summons for revocation of the grant.

The application is unopposed. The respondent was properly served and had adequate notice of the hearing date. For this reason, I ordered the hearing to proceed in the absence of the respondent and his counsel.

The applicant gave evidence in which he adopted his witness statement as evidence. He also adopted his affidavit as evidence in this court in support of revocation.

I believe the evidence of the applicant that the respondent forged his signature which forgery was reported to the police. The respondent then proceeded to have himself appointed as administrator of his mother's estate.

Furthermore, the evidence of the applicant (PW 1) is supported by his two sisters (PW 2 and PW 3). The evidence of the applicant's sisters is that they were not consulted by the respondent, before he was appointed the administrator of their mother's estate.

They have also stated that they do not know how the respondent became the administrator.

I believe the evidence of the applicant (PW 1) and his sister's (PW 2 and PW 3) that the respondent never consulted them and did not have their consent to be appointed the administrator.

I also find the respondent was not the son of the deceased.

Furthermore, I find that the respondent made a false representation to the court in obtaining the grant of representation, which is one of the grounds upon which a grant may revoke a grant in terms of section 76 of the Succession Act (Cap 160 laws of Kenya)

The court is entitled to revoke a grant at any time if it was irregularly obtained in breach of section 76, Succession Act.

In the light of the foregoing, I find that the applicant has proved his case against the respondent. And for this reason, the grant issued to him is hereby revoked. There will be no orders as to costs.

RULING DATED, SIGNED and DELIVERED in open court at **EMBU** this.. **9th** .. day of **NOVEMBER .2015**

In the presence of Mr Kamunyu and in the absence of the respondent.

Court clerk Nyaga

J.M. BWONWONGA

JUDGE

09.11.15