



IN THE HIGH COURT AT MIGORI

SUCCESSION CAUSE NO. 300 OF 2014

(Formerly MIGORI PM's Court Succession Cause No. 63 of 2009)

IN THE MATTER OF THE ESTATE OF

PARASIS NYAWANDA RADINDA (DECEASED)

BETWEEN

LEONIDA ACHOLA ODUNDO APPLICANT

AND

BENEDETA AKELO NYAWANA RESPONDENT

RULING

1. This case concerns the estate of Parasis Nyawana Radinda, who died on 10th September 1996. His wife Benedeta Akelo Nyawana applied for and obtained a grant of Letters of Administration in Migori, Principal Magistrates Court Succession Cause No. 63 of 2009. In that cause, she stated that she was the only surviving beneficiary of the deceased. The grant was subsequently confirmed on 12th January 2010 whereupon SUNA EAST/KAKRAO/145 was devised to be absolutely. She thereafter proceeded to subdivide it.
2. Leonida Achola Odundo moved the Court by a Motion dated 4th January, 2012 to revoke the grant under **section 76** of the *Law of Succession Act (Chapter 160 of the Laws of Kenya)* on the ground that the respondent failed to disclose all the beneficiaries. This is a mandatory requirement of **section 51** of the *Law of Succession Act*.
3. Both parties concede that the grant should be revoked and have executed a consent order dated 2nd September 2014. After hearing the parties, it is clear that the deceased had two wives. Benedeta Akelo is the only surviving wife of the deceased but she had no children. The deceased had another wife who had one son, Vitalis Odundo Nyawana. Vitalis, who is now deceased, and had three wives; Silvia Odundo (deceased), Leonida Odundo, the applicant, and Jenifer Odundo. All the wives of Vitalis Odundo ought to have been disclosed when the petition was filed hence there was material non-disclosure which entitles the court to revoke the grant in accordance with **section 76** of the *Law of Succession Act*.
4. As the parties agree to the revocation, I make the following order;
 - a. The grant of letters of administration Intestate issued on 8th June 2009 as confirmed on 12th

- January 2010 in Migori Principal Magistrate's Court Succession Cause No. 63 of 2009 be and is hereby revoked. The respondent shall return the original certificates to court for cancellation.
- b. Consequently the sub divisions of all the property known as SUNA EAST/KAKRAO/145 being SUNA EAST/KAKRAO/1451, 4062 and 4063 be and are hereby set aside and declared null and void.
 - c. A grant of letters of administration for the estate of the deceased shall issue accordingly to **LEONIDA ACHOLA ODUNDO** and **BENEDETA AKELO NYAWANA**.
 - d. The parties or either of them shall apply for confirmation within 30 days and shall procure the consent of all beneficiaries.
 - e. There shall be no order as to costs

DATED and **DELIVERED** at **MIGORI** on this 8th day of September 2014

D.S. MAJANJA

JUDGE

The applicant and respondent appeared in person.