



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERICHO
Succession Cause 32 of 2003**

1. Family Law

2. The Law of Succession

Notice of Intention of High Court of its own motion to revoke or annul a grant
Rule 44(5)
Form P&A. 69

3. Deceased estate – intestate

- i). Date of death 15th November, 1999(90 years old)
- ii). Letters of grant applied and granted to two administrators/administratix on 29th May, 2003. M. Apondi J
- iii). Letters of confirmed grant issued on 6th May, 2004 to two administrator/administratix
- iv). The administratix died on 23rd November, 2003 aged 78 years old due to cancer of esophagus.
- v). Grant issued after death of adminstratix and in her name with co administratix

4. Held

A deceased administratix cannot be an administratix of an estate.

5. Confirmed grant revoked.

6. Case Law - Nil

7. Advocates

S.K. Chelule advocate instructed by M/S Chelule & Co. advocates for the petitioner/applicants and beneficiaries.
KIPRUTO ARAP TENGECHA DECEASED

AND

ESTHER TAPSABEL..... 1ST PETITIONER

RICHARD KIPLANGAT RUTO 2ND PETITIONER

RULING

Revocation of grant on courts own motion

I: Background

1. The deceased one Kipruto Arap Tengecha was aged 90 years old when he passed away on the 15th November, 1999. He was survived by a widow, sons, and unnamed daughters.
2. His widow and one of his sons took out grant of letters intestate on 2nd April, 2003 and issued on 29th May, 2003 (M. Apondi J).
3. On 5th May, 2004, letters of confirmed grant were applied for the two administrators/administratix and issued on 6th May, 2004. The application had a prayer that the son be declared a sole administrator. Though the Hon. Judge indicated the application be granted the letters of confirmed grant read the names of the two applicants.
4. This court noted that the said letters indicated both names of the administrators/administratix when in fact one Esther- the widow had passed away on 23rd November, 2003 aged 78 years old due to cancer of esophagus.
5. The confirmed grant was issued by this court irregularly as a deceased person cannot be an administrator of an estate.

II: Revocation of grant

6. There being an error on the face of the record, this court issued a notice of revocation of grant under P&A. 44(5) Form P&A. 69.
7. The advocate for the applicant/administrator conceded that the grant as it stands cannot be used.
8. *(It was noted that there is a purchaser described as a survivor to the deceased estate which is irregular).*
9. **Order.** That grant be and is hereby revoked on courts own motion. Title is canceled. Costs be in Estate.

DATED this 1st day of October, 2009 at **KERICHO**

M.A. ANG'AWA

JUDGE

Advocates

S.K. Chelule advocate instructed by M/S Chelule & Co. advocates for the petitioner/applicants and beneficiaries.