

5. This Honourable court be pleased to cancel titles to L.R NO. MARSABIT/MOUNTAIN/1554, 1555 and 1556 and revert the same into the names of the deceased herein.
 6. This Honourable court be pleased to appoint ADAN TELE SAFE, the Applicant herein as the administrator of the estate of the deceased herein.
 7. This Honourable court be pleased to issue such further or better orders as will meet the ends of justice.
 8. Costs of this summons be provided for.
2. The application is premised on the grounds that L.R No. Marsabit/Mountain/10, which was subsequently subdivided into L.R Nos. Marsabit/Mountain/1554, 1555 and 1556 (**henceforth called the suit properties**) was at all material times registered in the name of Usata Tele Chabe, the deceased herein, in 2012. The respondent herein inherited the suit properties, to the exclusion of the other legal heirs to the estate, yet the deceased had bequeathed the estate to the applicant, who undertook extensive and costly developments thereon. Prior to her demise, the respondent was threatening to dispose the estate by way of sale with the developments thereon, which would occasion the applicant substantial loss and render him destitute. The respondent vowed to frustrate the applicant's enjoyment of his entitlement, and this informs why this cause was filed secretly at the exclusion of other interested parties. The actions of the respondent are manifestly illegal and should be frowned upon by this court by issuance of the appropriate remedies.
3. The respondent did not file any response to the application.

4. The applicant swore a supplementary affidavit on 1/7/2019 in support of the application.
5. The applicant, Mohammed Safe, the applicant's son, Peter Jarso Mato and Ahmed Daudi Dolre, a village elder swore affidavits on 1/7/2019 in support of the application.
6. Hadija Hussein Ali, a daughter to Habiba Hussein Siko (deceased) filed her witness statement 22/11/2019.
7. The application was canvassed by way of written submissions, which were only filed by counsel for the applicant.

Analysis and Determination

8. The issue for determination is whether the grant should be revoked.
9. Section 76 of the Law of Succession Act sets out the requirements for revocation or annulment of grant as follows:-

“A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion—

- (a) that the proceedings to obtain the grant were defective in substance;**
- (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;**
- (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently; (d) that the person to whom**

the grant was made has failed, after due notice and without reasonable cause either—

(i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or

(ii) to proceed diligently with the administration of the estate; or

(iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or

(e) that the grant has become useless and inoperative through subsequent circumstances.”

10. Whilst the applicant contended that his deceased father, the deceased herein bequeathed the estate property to him, the respondent maintained that her deceased mother was a daughter and the only beneficiary of the estate.

11. The applicant's claim is hinged on a handwritten will allegedly executed by the deceased herein dated 3/10/1992, in his presence and that of 9 others.

12. The applicant has equally exhibited a letter by the chief of Dakabaricha dated 15/2/2017 evincing that he lived with the deceased on the estate property for over 10 years. It is noteworthy that the application was filed

with inordinate delay on 24/6/2019, whereas the grant sought to be revoked was confirmed way back in 2009.

13.The only beneficiary listed in the introductory letter of the assistant chief of Dakabaricha sub location dated 10/3/2008 is Habiba Hussein Siko - daughter (now deceased).

14.The applicant is an indolent litigant, who waited a decade before seeking revocation of the confirmed grant. The belated production of the alleged will, purportedly describing the applicant as a son of a brother of the deceased, together with the chief's letter dated 15/2/2017, raises suspicion as to their authenticity. Had the Applicant indeed been a son of the deceased, as alleged, the Assistant Chief who authored the introductory letter would reasonably have been aware of his said status and accordingly identified him as a beneficiary to the estate.

15.The upshot from the foregoing analysis is that the application dated 14/6/2019 is in want of merit and it is accordingly dismissed.

DATED AND DELIVERED AT MERU THIS 26TH DAY OF JANUARY, 2026.

S.M. GITHINJI
JUDGE

APPEARANCES:

Mr. Gikunda for the Applicant.

Firm of Nelko Misati for the Respondent (Absent).