



**In re Estate of Lawrence Kiriam Kimoro (Succession Cause
79 of 1996) [2024] KEHC 1871 (KLR) (29 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1871 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISII
SUCCESSION CAUSE 79 OF 1996
PN GICHOHI, J
FEBRUARY 29, 2024**

IN THE MATTER OF THE ESTATE OF LAWRENCE KIRIAM KIMORO

AND

**IN THE MATTER OF THE APPLICATION BY JEMIMA
MORAA KIRIAMA AND KWAMBOKA KIRIAMA**

BETWEEN

JEMIMA MORAA KIRIAMA.....1ST OBJECTOR/ APPLICANT

KWAMBOKA KIRIAMA.....2ND OBJECTOR/APPLICANT

VERSUS

MARCARITHA MORAA KIRIAMARESPONDENT

RULING

1. The subject of this ruling is Summons dated 25th February 2022 and brought under a certificate of urgency seeking orders that:-
 1. Spent.
 2. Spent.
 3. Spent.
 4. The grant of letters of administration intestate issued to Marcaritha Moraa Kiriama, the Respondent, herein on 2nd April 2001 be revoked and/or annulled.
 5. The two certificates of confirmation of grant issued to the Respondent in this matter on 2nd April 2001 be revoked and /or annulled.
 6. A fresh grant of letters of administration be made to both the Applicants and the Respondent in this matter.



7. In their oral evidence before this Court, the Applicants told the Court that the deceased had three wives but the third one by the name Caterina Nyangnyi is now deceased.
8. The 1st Objector Applicant (Jemima) told the Court that that Caterina's son being Evans Maoga Kiriama stole her shamba at Kebiringo and cheptai which property belonged to the late Lawrence yet the deceased had given each of his three wives her portion before he died in 1993.
9. She further told the Court that she was living on another land in Bondeni which the deceased had bought. However, Evans Maoga took all the Titles for Kebiringo and Cheptai . She urged the Court to order that he returns the land to her.
10. On her part, Kwamboka Kiriama told the Court that the deceased had three wives but one died. That Evans Maoga took her land .
11. Evans Maoga Kiriama and Marcaritha Moraa Kiriama did not attend Court and did not file any response to this Application.
12. After considering the material before Court, it is apparent that the grant herein was obtained without involving the two Applicants who rank in priority by virtues of their status as widows of the deceased.
13. Further, the said grant was obtained without disclosing all the beneficiaries of this estate and denied them their right to share the property of the deceased.
14. The circumstances under which a grant can be revoked or annulled are clearly stipulated under Sec. 76 of the *Law of Succession Act* thus: -

“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.”[Emphasis added]



15. It is clear that there was concealment of material facts by the Respondent when she obtained the grant herein.
16. In the circumstances , the Court makes the following orders.
 1. The grant issued to Marcaritha Moraa Kiriama 2nd April 2001 be and is hereby revoked.
 2. A fresh grant be issued in the names of Jemima Moraa Kiriama, Kwamboka Kiriama and Marcaritha Moraa Kiriama.
 3. The three administrators shall file an application to confirm the grant within 45 days from the date of this ruling.

DATED, SIGNED AND DELIVERED (VIRTUALLY) AT KISII THIS 29TH DAY OF FEBRUARY, 2024.

PATRICIA GICHOHI

JUDGE

In the presence of:

Ms Nyambeki for Applicants

N/A for Respondent

Saewa/ Aphline- Court Assistant

