



REPUBLIC OF KENYA



**Ondego v Ajowi (Miscellaneous Case E050 of 2024)  
[2024] KEHC 12051 (KLR) (30 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 12051 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CASE E050 OF 2024  
MS SHARIFF, J  
SEPTEMBER 30, 2024**

**BETWEEN**

**JAMES MBOGO ONDEGO ..... APPLICANT**

**AND**

**AGONGO OBARO AJOWI ..... RESPONDENT**

**RULING**

1. The Applicant herein James Ombogo Ondego has vide the notice of motion, undated and supported by his affidavit also sworn on unknown date craved for orders of transfer of Nyando PMCC Succession Cause No. 245 of 2020 from Nyando Principal Magistrates' Court to Maseno Principal Magistrate's Court supposedly pursuant to the directions made by the trial court on 24.8.2021.
2. Upon this application being placed before me, I called for the lower court file and I have thus perused the same and made the following observances:
  - a) The Chief's letter dated 21.3.2021 authored by one Mrs. Mary A. Odhiambo, the Chief of West Kisumu Location does not disclose all the beneficiaries of the deceased persons and further the same has erroneously bundled all the deceased persons in one letter instead of writing separate letters for each of the deceased person.
  - b) In the said Chief's letter the Applicant James Ombogo Ondego was to be the administrator of the estate of Alfred Waga Kula, while one Walter Ojango Sigu was to be the administrator of the estate of Jagongo Obaro Ajowi and Sospeter Ute Sigu was to be the administrator of the estate of Sabina Ajwang Sigu.
3. As per the record of the lower court file the petition was returned to the petitioner on 24.8.2021 and he was directed to file his petition in Maseno Law Courts. The Applicant herein did not heed the directions of the court but instead moved the court for a mention on 26.4.2022 when Hon. R. Sang, Principal Magistrate directed that the 3 petitions be filed in Maseno Law Courts as the property of the



- 3 deceased persons namely parcel No. Kisumu/Kapuonja/1292 is domiciled in Kisumu West which is within the geographical jurisdiction of Maseno SPM's Court.
4. Given the analysis made hereinabove I do note that the lower court acted in error in issuing the grant of letters of administration which bundle all the 3 deceased persons together.
  5. In exercise of my supervisory jurisdiction donated to me under article 165 (b) and (7) of the *Constitution of Kenya* 2010 and Rule 73 of the *Probate and Administration Rules* I do hereby dismiss the application and I do hereby revoke the grant of letters of administration issued to the Applicant James Ombogo Ondego by Nyando SPM in Succession Cause No. 245 of 2020 in respect of the estates of Jagongo Obaro Ajowi, Sabina Ajwang Sigu and Alfred Waga Kula on 6<sup>th</sup> October 2020 due to an error apparent on the face of the grant.
  6. The Applicant is directed once again to file his petition in respect of the estate of Alfred Waga Kula in Maseno SPM's court. Similarly, the other proposed administrators namely Walter Onjango Sigu for the estate of Jagongo Obaro Ajowi and Sospeter Ute Sigu for the estate of Sabina Ajwang Sigu ought to file individual and separate petitions in respect of the other two deceased persons.
  7. I direct that this ruling be placed in Nyando SPM Succession Cause No. 245 of 2020. The lower court file be returned forthwith to Nyando Law Courts and the same be placed before the court for purposes of having it marked as closed.
  8. In order to prevent future mischief as the one evident in the lower court file, I hereby direct that this ruling be brought to the attention of the magistrate in charge of Maseno Law Courts and the in-charge of probate registry of Maseno Law Courts so as to put them on notice of the machinations of the Applicant who might yet again attempt to file a joint petition in respect of the estates of Alfred Waga Kula (deceased), Jagongo Obaro Ajowi (deceased) and Sabina Ajwang Sigu (deceased) who are common proprietors of parcel No. Kisumu/Kapuonja/1292.
  9. This file is marked as closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 30<sup>TH</sup> DAY OF SEPTEMBER, 2024.**

**M. S. SHARIFF**

**JUDGE**

