



**Jacob & 6 others v Kaloi & another (Succession Cause
144 of 1998) [2023] KEHC 2612 (KLR) (28 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2612 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
SUCCESSION CAUSE 144 OF 1998**

MW MUIGAI, J

MARCH 28, 2023

IN THE MATTER OF THE ESTATE OF STEPHEN SAITIEU KALOI (DECEASED

BETWEEN

**ANGELLA SYOKWAA JACOB 1ST OBJECTOR
JAMES KALOI SAITEU 2ND OBJECTOR
BERNADETTE NKUNKUCHE 3RD OBJECTOR
JENNIFER WAIRIMU SAITIEU 4TH OBJECTOR
CHRISTINE PERERUAN SAITIEU 5TH OBJECTOR
FLORENCE SELEMA SAITIEU 6TH OBJECTOR
LILIAN SOTIAN SAITIEU 7TH OBJECTOR**

AND

**REBECCA NDINDA STEPHEN SAITIEU KALOI 1ST ADMINISTRATOR
JEREMIAH KALOI SAITIEU 2ND ADMINISTRATOR**

RULING

1. The deceased Stephen Saitieu Kaloi Koyiet died on 8/11/1997.
2. The Petition for letters of administration intestate was filed on 12/8/1998 and lists 3 widows and 15 children. The assets include IR 52843, IR52844, IR 48450, all in Athi River and IR 64240 & IR 64598.
3. The Petition was gazette in Kenya Gazette on 28/8/1998 the grant was issued to Rebecca Ndinda Stephen Saitie Kaloi & Jeremiah Kaloi Saitie



4. The grant was confirmed on 17/7/2000 and properties comprising the estate of the deceased were distributed between the 2 Administrators.
5. The Application was brought by 7 Applicants vide Notice of Motion dated 25/2/2021 and they sought conservatory orders and an injunction restraining any interference of assets that comprise of the deceased's estate pending hearing and determination of the summons for revocation of grant.
6. The Ruling by Hon D K Kemei J of 29/7/2021 granted the application after the parties appeared submitted before Kemei, J in Paragraph 36 and 37 of the Ruling the Court stated as follows:

"Par 36 After analyzing the prayers sought in the application, I find that prayers number 1, 2, 3 and 4 are already spent leaving only prayers 5, 6 and 7. As noted above, prayer 5 seeking conservatory orders of preservation of the assets of the deceased is merited. Prayer 6 on injunction is not merited. Prayer 7 wherein the OCS Mavoko police station is required to enforce the orders is not merited because an order of status quo does not require enforcement thereof by the police.

Par 37 In the result, it is my finding that the application dated 25/2/2021 only succeeds to the extent that an order of *status quo* regarding the assets of the deceased as disclosed shall be maintained pending determination of the summons for revocation of grant in terms of prayer No 5 and that the other prayers stand dismissed. The parties should now set down the summons for revocation of grant dated 25/2/2021 for hearing on priority basis. Each party to meet their own costs."

Summons For Revocation Of Grant

7. The Objectors/Applicants herein filed summons for revocation of grant dated February 25, 2021 pursuant to Section 26, 29, 40,45 and 76 of the [Probate and Administration Rules](#) of the [Law of Succession Act](#) and all enabling provisions of the law.
8. The Applicants sought the following orders;
 - a. The grant of letters of administration issued on 22/6/1999 and confirmed on 17/7/2000 be revoked.
 - b. The 1st Objector Ms Angella Syokwaa Jacob to be appointed as Co Administrator
 - c. Upon hearing and determination of the instant Application, the Court to cancel or revoke all sales, subdivisions and/or transfers by the Administrators to the estate of the deceased.
 - d. Upon hearing and determination of the instant Application, the Court to issue an order of injunction restraining the Administrators their agents, servants or employees from selling, leasing, transferring, charging or interfering in any way with the estate of the deceased.
 - e. The Administrators be and are hereby directed to file fresh Summons for Confirmation of grant within 30 days of judgment and final distribution of the deceased's estate.
9. This Court took over the matter on June 23, 2022 whereby this Court directed the parties to file written submissions. Mr Musungu Advocate for the petitioners prayed the Court to be given time to file a Replying Affidavit. After the perusal of the Court Record this Court allowed the parties to file Further Affidavit and corresponding leave to file responses.
10. On July 18, 2022 this Court stated that the pleadings are closed and parties/counsel were directed to file and exchange written submissions within 21 days each.



Replying Affidavit By Petitioners

11. On June 17, 2022 the Petitioners filed their joint Replying affidavit sworn on June 15, 2022 deposing as follows;
- a. That they denied ever impersonating the Objectors at any time and denied that they fraudulently petitioned for the letters of Administration as alleged and put the Respondents to strict prove thereof.
 - b. That in reply to the par 9 of the Affidavit the petitioners stated that they never forged signatures of the Objectors as alleged and the Petition annexed in as “AS J2” in the said affidavit is duly signed by all; that the Applicants/Objectors are listed in Form P&A 5 as persons who survived the deceased; that the letter of no objection was signed by the objectors listed therein and none of petitioners forged anyone signature; that the Petitioners filed for the confirmation of the grant in person as they were unable to meet the advocate fees; that the Court heard the application for confirmation of Grant and it never required or stated that the beneficiaries were required in court in person; that the court have been satisfied when it heard and confirmed the grant; that the court knew that the Petitioners were acting in person and proceeded to give them audience as lay persons.
 - c. In reply to par 10 of the Affidavit the proceedings on the date of confirmation were regular and procedural and if they were not the Judge could not have confirmed the Grant.
 - d. The sub-division of the property IR 48450 LR No 14757 was done by the deceased before his death into six (6) portions of land stipulated above.
 - e. The property listed by the objectors in par 11(c) as LR 48450 LR 14757 therefore does not exist.
 - f. The subdivision of the property LR 14757 /5 was done and all houses allocated three (3) acres each.
 - g. The petitioners have not violated the trust entrusted to them by the Grant and the intended sale which is mentioned in par.11 was to facilitate the fair administration of the estate and funds to protect the estate but the purchasers never paid the full purchase price.
 - h. The other properties had to be disposed of to pay sub-division and processing of sub-titles charges and surveyor charges, legal fees, improvements of roads within the estate after subdivision, installation of Electricity and water and all these were essential in the Administration of the estate and cannot be termed as intermeddling with the Estate.
 - i. The Applicants stay in the same property with the 2nd Respondent and even during the subdivisions of the mother title the properties where they have constructed their houses were issued with title deeds and this was done in good faith and in the process of the administration of the estate and cannot be said to be intermeddling with the estate and cannot constitute a ground of revocation of the grant.
 - j. The Applicants all along knew and were aware that the letters were applied for and that the grant was confirmed and process of administration of the estate was going on and they cannot come after twenty (20) years to claim that the process of applying for the grant was improper, the delay in filing the application for Revocation is not reasonable and it is not explained.



Submissions

Objectors' /applicants' submissions.

12. The Applicants filed their submissions dated September 30, 2022, in which the applicants raised the following legal issues;
 - a. Whether the objectors participated in the proceedings relating to the petition of letters of administration and summons for confirmation of grant?
 - b. Whether the proceedings relating to the issuance of letters of administration on 22/6/1999 and subsequent issuance of summons for confirmation of grant on 17/7/2000 were irregular, illegal and should be revoked.
 - c. Whether objectors are entitled to orders for cancellation or revocation of all sales, sub-divisions or transfers by the respondents arising from the estate of the deceased.
 - d. Whether the estate of the deceased should be distributed a fresh and equally to all the objectors
 - e. Whether objectors are entitled to *status quo* orders
 - f. Who bears the cost of this application?
13. As to whether the objectors participated in the proceedings relating to the petition of letters of administration and summons for confirmation of grant, it is submitted that from the onset the objectors never participated in the proceedings relating to petition of letters of administration and summons for confirmation of the grant despite the fact that some of the applicants names were included in the petition and summons for the confirmation of grant they were not aware of the existence of succession proceedings therefore they were aware of the succession proceedings.
14. It is submitted that pleadings relating to the petition for letters of administration and confirmation of grant clearly shows that some of the names of the objectors are missing. That a presumption that some of the objectors names appearing in the said pleadings and some missing is an automatic that all objectors were aware of the succession proceedings, the applicants differed with the view.
15. That it is wrong for the respondents to insist that some of the objectors knew about the succession proceedings and signed pleadings including a consent of no objection to the mode of distribution as a result of which this Court should assume and find that all the objectors consented to the mode distribution as a result of some of the beneficiaries from their house having allegedly consented to the mode of distribution.
16. It is further submitted that the affidavit sworn on 4/7/2021 the objectors clearly demonstrated that they lacked knowledge of the existence of the petition for letters of administration and summons for the confirmation of grant, that their signatures to the pleadings were forged confirming their none participation in the succession proceedings. That in the further affidavit the objectors denied participation that as at 17/7/2000 when the grant was confirmed , 1st to 5th objectors were all adults but did not participate in the succession proceedings as per the court proceedings on the day for confirmation of grant and their individual absence in court was not explained by the respondents.
17. That 1st to 5th objector's names and signatures are missing in the most pleadings relating to the succession proceedings. They submitted further that the 6th objector though a minor as at 17/7/2000 when the grant was confirmed and a child of the deceased was not mentioned anywhere in the pleadings



yet the respondents knew that she was a child of the deceased. Similarly, she has never been provided for, a clear indication that she has been disinherited by the respondents.

18. As to the issue of whether the proceedings relating to the issuance of letters of administration on 22/6/1999 and subsequent issuance of summons for confirmation of grant on 17/7/2000 were irregular, illegal and should be revoked Section 76 of the *Law of Succession Act*, Cap 160 Law of Kenya provides grounds for revocation of grant.
19. In the instant case it is submitted that the objectors have proved all the grounds for revocation of grant as required under Section 76 of the *Law of Succession Act* Cap 160
20. On the issue of Whether objectors are entitled to orders for cancellation or revocation of all sales, subdivisions or transfers by the respondents arising from the estate of the deceased, they submitted that the proceedings leading to the issuance of letters of administration and certificate for confirmation of grant were irregular, fraudulent and illegal and therefore the same ought to be revoked.
21. The Applicants submitted that under the succession Act the trial has powers to revoke and cancel all the title deeds arising from the irregular and fraudulently obtained letters of administration and subsequent certificate for confirmation of grant. At paragraph 11 and 12 of the supporting affidavit to the summons for revocation of grant and as per annexure 1B it was submitted that the objectors pleaded that the grant issued on 17/7/2000 created a trust to the estate of the deceased in favor of all beneficiaries.
22. It is submitted that any purported sale of transfer of the estate of the deceased to third parties was therefore illegal and fraudulent without leave of court altering or severing the said trust; that the objectors wonder how the registrar approved the transfers of the estate of the deceased without leave of court permitting severing trust created in the grant. Reliance was placed in the case of *Morris Mwiti Mburungu – vs- Dennis Kimathi Mburungu* 2016 and held as follows.

“...where any person interferes with the free property of the deceased or deals with an estate of a deceased person contrary to the provisions of sections 45 and 82 of the Act, that is intermeddling, is unlawful and cannot be protected by the court. The transaction is subject to be nullified and set aside at the instance of the innocent beneficiaries who may have been affected by the act but were not involved in the same.”

the judge went ahead to hold that Section 76 of the Law of Succession Act envisions that the grant can be revoked where the grant was obtained procedurally, but the administrator, thereafter, got problems with the exercise of administration such as where he/she fails to apply for confirmation of grant within time the allowed, or she fails to proceed diligently with administration, or fails to render accounts as and when required. I find that the petitioner failed to proceed diligently with administration as the 1st respondent caused the 2 acres’ portion of Nyandarua/Oljoro Orok Salient/1881 of the estate property to be transferred to the 1st petitioner and registered in his name without the confirmation of grant.”

23. In its finding, the Trial Court made the following final orders;

“...In light of the above, I invoke the inherent powers of this court granted under Article 159 of the Constitution and Section 76 of the Law of Succession Act and make the order to revoke the letters of grant of administration issued to the Petitioner and subsequent confirmation as it was obtained fraudulently by the making of false statement or by the concealment from court of something material to the case particularly in relation to the sale



of the 2 acre portion of Nyandarua/Olgoro Orok Salient/1881 belonging to the Applicant's husband....”

24. The applicants/ objectors further submitted that it is not disputed by the respondents that the grant herein created a trust. That it is noticeable from the replying affidavit of the respondents and annexures thereto that the alleged purchasers and third parties ought to have known that the estate of the deceased was only held by the respondents as trustees, considering that the third parties Advocates conduct of due diligence could have revealed to the nature of trust existing on the estate of the deceased.
25. Further it is submitted that copy of the summons for confirmation of grant attached to the application for revocation that respondents pleaded in the application for confirmation of grant that there was liabilities attached to the estate of the deceased. Where did the subsequent liabilities come from? That even if the issues of liabilities was discovered after the confirmation of grant, what stopped the respondents from going back to court and seek necessary orders to address the issues of liability instead of dealing with the estate of the deceased as it were a personal property?
26. That the respondent has intermeddled with the estate of the deceased and failed to diligently deal with the estate of the deceased. All transactions conducted by the administrators arising from the grant issued on 17/7/2000 were therefore illegal, fraudulent and the same ought to be revoked by this honorable court.
27. As to Whether the estate of the deceased should be distributed a fresh and equally to all the objectors herein?, it was submitted that respondent had not disputed that the objectors are dependents and beneficiaries to the estate of the deceased under Section 29 of the Law of Succession Act. The respondent have not explained to this Honorable Court why the objectors have not been provided for, for 20 years after the grant was confirmed.
28. It is submitted the respondents allegedly derive powers to sub- divide the estate of the deceased and allegedly issue a title deed to the 1st respondent? And what size of land was given to the 1st respondent and where is the evidence of title? No evidence has been provide the respondents to answer this questions.
29. On the issue of Whether objectors are entitled to status quo orders, it is submitted that on 29/7/2021, Hon Justice D K Kemei delivered a ruling arising from the objectors' application dated 25/2/5/2021 that sought among other orders in respect of the estate of the deceased until summons for revocation of grant herein is determined. They submitted that the *status quo* should remain in place until the objectors are fully provided and urged the court to grant the said orders.
30. On the issue of who bears the costs of this application, it is submitted that the application be allowed as prayed with costs to the Objectors/Applicants.

Respondents' submissions

31. The respondents filed there submissions dated November 14, 2022, in which they submitted as follows; on whether the Letters of Administration were issued without participation, knowledge or Consent of the Objectors as per the affidavits of the Administrators it is stated that the proceedings were conducted with knowledge and consent of the objectors that allegations by objectors that proceedings were conducted without their knowledge is an afterthought since they were aware and participated in the same. There was no secret conduct of succession proceedings and the applicant have not been prejudiced. That the properties which were sold was within the knowledge and consent of the applicants. That in the affidavit of opposition to the applicant's application for injunction the



respondents disclosed how and why the properties had to be sold. They referred to the affidavit filed on 10/3/2021 in its full context.

32. On whether the issuance of letters of administration and confirmation were irregular and illegal, it is submitted that the laid down procedures was followed in issuing the letters of Administration and the confirmation of the grant. That the judge who confirmed the grant must have been convinced by the evidence before while allowing the confirmation and that by the applicant being aware of the proceedings were estopped by conduct to challenge the grant.
33. On whether the respondents fraudulently procured the objectors consent and proceeded to forge the objectors' consents and signature, it is submitted that applicants made a very serious allegations of forgery of the applicants' signatures without any material to support the same and the applicants ought to have gone the handwriting expert and file a document examination report in court. The respondents have stated in their affidavit that they never committed any fraud or impersonation as alleged by the applicants and no evidence has been put before court support such allegations.
34. On whether the respondents have intermeddled with the estate of the deceased by sub dividing and selling portions of the estate, it is submitted that respondents throughout these proceedings have denied intermeddling with the estate in both the affidavit opposing the notice of motion and the affidavit in opposition of the summons for revocation have specifically stated that the sub division and sale was not for their own benefit but for the benefit of the estate since the deceased before death had sold most of the properties and charged other properties and the respondents were honoring the will of the deceased.
35. That the Court had ruled in the application of the notice of motion for injunction that the sale was necessary and was done in good faith to protect the estate and as such it cannot be cancelled. That sub-division was to the benefit of the applicants as to the portions of land where they settled titles have been issued to them.
36. It is further submitted that applicants have failed to discharge the burden of their proof that the making of a grant of letters of administration in respect of the estate was defective in substance or made without disclosure of material evidence or any false representation by the respondent. That the grounds ought to be proved with evidence as the power to revoke grant is discretionary power that must be exercised judiciously and only on sound grounds. Reliance is made in the case of *Imbuga Kisigwa –vs- Recho Kisigwa*, Succession Cause No 158 of 2000. It is submitted that even when revocation is by the Court on its own motion there must be evidence to satisfy the grounds for revocation of grant see the case of *Matheka and Anor –vs- Matheka* [2005]2 eKLR 455).

Determination

37. The Court considered the Court record, pleadings and written submissions of parties through their respective Counsel and the main issue is whether the grant and confirmed grant may be revoked or not
38. The revocation of grant is provided for by Section 76 *LSA* 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—

....."

39. In the case of *Albert Imbuga Kisigwa v Recho Kawai Kisigwa*, Succession Cause No 158 of 2000, Hon Mwita J in a decision rendered on November 15, 2016, noted thus:

"(13) Power to revoke a grant is a discretionary power that must be exercised judiciously and only on sound grounds. It is not a discretion to be exercised whimsically or capriciously. There must be evidence of wrong doing for the court to invoke section 76 and order to revoke or annul a grant. And when a court is called upon to exercise this discretion, it must take into account interests of all beneficiaries entitled to the deceased's estate and ensure that the action taken will be for the interest of justice."

40. *In Re Estate of Prisca Ong'ayo Nande (Deceased)* [2020] eKLR Hon W Musyoka J observed;

"Under section 76, a court may revoke a grant so long as the grounds listed above are disclosed, either on its own motion or on the application of a party. A grant of letters of administration may be revoked on three general grounds. The first is where the process of obtaining the grant was attended by problems. The first would be where the process was defective, either because some mandatory procedural step was omitted, or the persons applying for representation was not competent or suitable for appointment, or the deceased died testate having made a valid will and then a grant or letters of administration intestate was made instead of a grant of probate, or vice versa. It could also be that the process was marred by fraud and misrepresentation or concealment of matter, such as where some survivors are not disclosed or the applicant lies that he is a survivor when he is not, among other reasons. The second general ground is where the grant was obtained procedurally, but the administrator, thereafter, got into problems with the exercise of administration, such as where he fails to apply for confirmation of grant within the time allowed, or he fails to proceed diligently with administration, or fails to render accounts as and when required. The third general ground is where the grant has become useless and inoperative following subsequent circumstances, such as where a sole administrator dies leaving behind no administrator to carry on the exercise, or where the sole administrator loses the soundness of his mind for whatever reason or even becomes physically infirm to an extent of being unable to carry out his duties as administrator, or the sole administrator is adjudged bankrupt and, therefore, becomes unqualified to hold any office of trust."

41. The Applicants lay the following claims /allegations as the basis for revocation of grant;

- a) The grant for letters of administration intestate issued on 22/6/1999 and subsequently confirmed on 17/7/2000 was issued and thereafter confirmed without the Applicants/ Objectors participation, knowledge or consents. The Applicants/Objectors are widow of the deceased and her children and are beneficiaries of the estate of the deceased.



- b) That during the process of petitioning for letters of administration their written consents were not obtained and during the confirmation of grant their written consents and physical appearance were not conducted. The consents were obtained by fraud and hence the process was irregular unprocedural and fatally defective.
- c) Some of the beneficiaries were omitted in the List of beneficiaries in the Petition namely, Florence Saitieu, Bernadetta Nkuche Saitieu, Jenipher Wairimu Saitieu & Christine Pereruan Saitieu.
- d) The Petitioners subdivided portions of assets that comprise of deceased's estate and sold to 3rd parties fraudulently in a bid to disinherit the Applicants and defeat their interest.

42. This Court perused the Court file and found as follows;

The Petition for Letters of Administration filed on 12/8/1998 does not contain /or annexed the Consent to making a Grant it is not clear whether it was filed but over the years the same is misplaced from the Court file or what happened. Suffice is to state that Section 51 LSA which provides;

"51. Application for grant

- (1) Every application for a grant of representation shall be made in such form as may be prescribed, signed by the applicant and witnessed in the prescribed manner.
- (2) Every application shall include information as to—
 - (a) the full names of the deceased;
 - (b) the date and place of his death;
 - (c) his last known place of residence;
 - (d) the relationship (if any) of the applicant to the deceased;
 - (e) whether or not the deceased left a valid will;
 - (f) the present addresses of any executors appointed by any such valid will;
 - (g) in cases of total or partial intestacy, the names and addresses of all surviving spouses, children, parents, brothers and sisters of the deceased, and of the children of any child of his or hers then deceased;
 - (h) a full inventory of all the assets and liabilities of the deceased; and (i) such other matters as may be prescribed.

was not complied with some beneficiaries/children of the deceased were omitted from the list of beneficiaries.

And Rule 26 of the Probate and Administration Rules that provides as follows: -



26.

- (1) Letters of administration shall not be granted to any applicant without notice to every other person entitled in the same degree as or in priority to the applicant.
- (2) An application for a grant where the applicant is entitled in a degree equal to or lower than that of any other person shall, in default of renunciation, or written consent in Form 38 or 39, by all persons so entitled in equality or priority, be supported by an affidavit of the applicant and such other evidence as the court may require.”

43. These provisions were not complied with in the process of obtaining letters of administration intestate; some of the beneficiaries’ names were omitted and written consents were not obtained to aid in pursuit of the grant. Therefore, the grant of 22/6/1999 confirmed on 17/7/2000 is hereby revoked under Section 76 (a) LSA.
44. To the issue of appointment or choosing Administrators, the pleadings disclose there were/are 3 houses; 3 widows of the deceased and their children. Yet the Administrators are only 2 and in the absence of written consents from beneficiaries to confirm informed consent to have only 2 Administrators representing the 3 houses, this Court invokes Section 66 LSA and appoints/adds 1st Objector /Applicant widow of the deceased the 2 Petitioners as Administrators of the deceased’s estate.
45. With regard to Confirmation of grant, this Court gleaned the Court record and apart from the Certificate of Confirmation of Grant, the Summons for Confirmation of Grant application again is missing in the Court file and therefore it cannot be verified if the List of beneficiaries, List of assets, and proposed mode of distribution and Written consents from beneficiaries with signatures and ID numbers were availed and confirmed or not.
46. On the allegation that the Applicants signatures were forged or obtained through fraud, in the absence of Summons for Confirmation it is not possible to confirm the allegation. Section 107,109 & 112 Evidence Act require the burden and standard of proof to be discharged by the Claimant. In this case, from the record, the fraud/forgery is not borne out by the record.
47. In Stephen Mutua Kasembi v Samuel Makau Kasembi & Another, Misc Succession Application No 407 of 2015, Hon Nyamweya J (as she then was) in her decision of July 27, 2016 stated that:
- "As regards the ground that the Applicant’s signature is a forgery, this is an allegation that must be strictly proved by forensic evidence from a document examiner, particularly since the allegation borders on an accusation of commission of a criminal offence, as was held in Re Michael Mwangi Githinji (Deceased), (2009) e KLR and In Re the Estate of PWM (Deceased), (2013) eKLR. No such forensic evidence was tendered by the Applicant." (Emphasis added)
48. The Petitioners filed Grounds of Opposition of 5/3/2021, the Replying Affidavit of 10/3/2021 & 17/1/2022 in a nutshell, the Petitioners submitted that they have not intermeddled with the estate, the sold properties were sold by the deceased and properties charged to banks. The beneficiaries of the estate consist of 3 houses and the distribution of the estate is ongoing. The Application is made in bad faith as the Applicants reside on part of the deceased’s estate.



49. In spite of the submissions by Petitioners, this Court is concerned that from confirmation of grant which was in 2000 and to date distribution of the estate is not concluded. The Petitioners explained that after the deceased's demise, the elders called the family and distributed the herds of cows, goats and sheep equally among the family members according to Masai customary law. The Administrators were appointed to pursue confirmation of grant and distribution of the estate of the deceased.
50. This Court relies on Section 81 82 & 83 LSA that spell out the duties, powers of personal representatives/Administrators of deceased's estate. The administrators ought to have completed the distribution exercise within 6 months of confirmation of grant and render Accounts.
51. The Ruling by Hon DK Kemei J of 29/7/2021 granted maintenance of *status quo* pending hearing and determination of this Application. This Court finds that it is prudent to maintain status quo until the confirmation of grant is completed.
52. Maintenance of *status quo* is to enable the beneficiaries and Administrators meet, discuss, agree and consent to the distribution of the estate of the deceased. *Bona fide* Purchasers without notice of defective title shall remain *in situ* and are protected by Section 93 LSA unless and until proved to be fraudulent illegal or unlawful sale/purchase of land.

Disposition

1. The grant of letters of administration of June 22, 1999 and confirmed on 17/7/2000 is revoked under Section 76 of LSA.
2. The *Bona fide* Purchasers who bought for value, without notice of defective title shall remain in situ and are protected by Section 93 LSA unless and until proved to be part of or involved in fraudulent illegal or unlawful sale/purchase of land that is part of deceased's estate.
3. A new/fresh grant of letters of administration shall issue to the following Administrators;
 - a. Rebecca Ndinda Stephen
 - b. Jeremiah Kaloi Saitieu
 - c. Angella Syokwaa Jacob
4. The Applicants/Objectors and ALL beneficiaries of the estate of the deceased to meet with Administrators and discuss and propose/agree on the proposed mode of distribution of the deceased's estate.
5. The Administrators shall thereafter file Summons for Confirmation of Grant after consultations proposals and/or consents from/by beneficiaries.
6. If any party shall still be aggrieved after filing of Summons for Confirmation, the party shall file Protest to be heard before Confirmation of grant.
7. The parties/Advocates are at liberty to pursue Court -annexed mediation if it will expedite matters and appear before Deputy Registrar for screening within 30 days from the Ruling.
8. There shall remain in force maintenance of status quo pending hearing and determination of the intended to be filed Summons of Confirmation.
9. Further Mention after 90 days/3 months before this Court on a date to be obtained by either party from/through DR MHC.



10. Each party shall bear their own costs since this is a family matter.

It is so ordered.

**DATED, SIGNED AND DELIVERED IN MACHAKOS THIS 28th DAY OF MARCH, 2023
(VIRTUAL/PHYSICAL CONFERENCE).**

M.W MUIGAI

JUDGE

IN THE PRESENCE OF:

Mr. Were H/B for Mr. Musungu for the Objectors

Mutinda for the Petitioners

Geoffrey/Patrick - Court Assistant(s)

