



REPUBLIC OF KENYA



**In re Estate of Jason Andati Mukabana (Deceased) (Succession Cause 202 of 1991) [2023] KEHC 2833 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2833 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
SUCCESSION CAUSE 202 OF 1991**

**WM MUSYOKA, J**

**MARCH 24, 2023**

**IN THE MATTER OF THE ESTATE OF JASON ANDATI MUKABANA (DECEASED)**

**RULING**

1. The application, dated June 8, 2021, invites me to review orders that were made on October 7, 2020. It is argued that the grant herein had been confirmed in 1993, and executed, and the property had changed hands. It is argued that Nicholas Kabene Mukabana, who had obtained the orders of October 7, 2020, had not disclosed that he had no interest in the estate, as his father had already been settled by the deceased.
2. Nicholas Kabene Mukabana has replied to the application. He says that the proceedings to obtain the grant herein were defective, to the extent that the person who initiated them, Patroba Mukabana, only disclosed himself as the only child of the deceased, leaving out Silas Mukabana, Alex Mukabana, Bob William Omkoto, George Nyabera, Abisai Mukabana and Elisieba Mukabana. He says that at confirmation of grant, the said Patroba Mukabana presented himself as the only child of the deceased, and proceeded to share out only 1 asset, being Butsotso/Bukura/70, yet the deceased owned other assets, being Butsotso/Bukura/111 and 175. He avers that the other family members had not been notified of the proceedings.
3. The orders that were made on October 7, 2020 were with respect to substitution of the administrator, Patroba Mukabana, who had passed on. On January 26, 2021, the confirmation orders in force were set aside, and the new administrator was directed to apply afresh for confirmation of grant.
4. It is clear from the application that Patroba Mukabana was not the only son of the deceased, yet he misled the court into believing that he was. That made the proceedings to obtain his grant defective in substance. Whether the other children were not entitled to the asset that he had listed was neither here nor there. The cause was about the estate of the deceased, and all the children of the deceased should have been disclosed. The issue as to whether they were entitled to a share in the estate was an issue for determination at confirmation.
5. I find no merit in the application, dated June 8, 2021. The same is for dismissal, and I hereby dismiss the same. Being a family matter, each party shall bear their own costs. It is so ordered.



**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA ON THIS 24<sup>TH</sup> DAY  
OF MARCH 2023**

**WM MUSYOKA**

**JUDGE**

Erick Zalo, Court Assistant.

Ms. Andia, instructed by Andia & Company, Advocates for the applicant.

Mr. Indimuli, instructed by Walunya Indimuli & Company, Advocates for the administrator.

