



In re Estate of Juma Shitseswa Linani (Deceased) (Succession Cause 26 of 1999) [2023] KEHC 2701 (KLR) (24 March 2023) (Ruling)

Neutral citation: [2023] KEHC 2701 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
SUCCESSION CAUSE 26 OF 1999**

WM MUSYOKA, J

MARCH 24, 2023

**IN THE MATTER OF THE ESTATE OF JUMA SHITSESWA LINANI
(DECEASED)**

RULING

1. Am called upon to determine a summons for revocation of grant, dated June 24, 2019. It is argued that the grant sought to be revoked was obtained secretly, without involving other survivors of the deceased and beneficiaries of the estate.
2. The administrator, Iddi Webukha Juma, in his affidavit of October 17, 2019, discloses that there are existing proceedings over 1 of the assets of the estate, by individuals who claim to have had bought it from the deceased, which means that the administration of the estate is yet to be completed. It also emerges that the applicant has a sister called Zuhura Onduso, and that there were other 7 daughters of the deceased.
3. The deceased died in 1992, after the *Law of Succession Act*, cap 160, Laws of Kenya, had come into force. The letter from the Chief, dated September 24, 1998, listed 12 survivors, being 3 widows and 9 sons. These 12 individuals were transported into the petition filed in court on January 25, 1999. When the grant was proposed for confirmation, in the application, dated 14th February 2008, only 8 of the sons were disclosed, and provided for, and the estate was devolved to the 8, as per the certificate of confirmation of grant dated July 29, 2009. The 8 daughters, that Iddi Webukha Juma talks about, in his affidavit of October 17, 2019, were not involved in the process, and were disinherited.
4. Non-disclosure of survivors of a deceased person is a good ground for revocation of a grant. The non-disclosure of the 8 daughters meant that the process of obtaining the grant was defective, and was founded on misrepresentation and concealment of matter from the court.
5. I need not say more. I have discretion, under section 76, to either revoke the grant or make alternative orders. I shall not revoke the grant herein, instead I shall appoint the applicant, Abdi Banur Aura, an additional administrator, to Iddi Juma. I decide so given the period of time that has expired since the death of the deceased in 1992, and the initiation of this process in 1999. The grant of letters of



administration intestate, on record, shall be amended accordingly, to introduce the name of Abdi Nur Aura.

6. I shall also not set aside the orders that were made on the distribution of the estate in 2009, instead I shall direct that the 8 daughters of the deceased be availed in court, to make known their desires on distribution of the estate, so that the court can finally determine what ought to be done with the confirmation orders of 2009, in view of whatever the daughters shall desire, in which case the court may set the said orders aside, to pave way for re-distribution of the estate, in a process that shall include every child of the deceased.
7. It is so ordered.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA ON THIS 24th DAY OF March 2023

WM MUSYOKA

JUDGE

Erick Zalo, Court Assistant.

Mr. Musiega, instructed by ABL & Company and PK Kamau, Advocates for Iddi Webukha Juma.

Mr. Manyoni, instructed by Momanyi Manyoni & Company, Advocates for Abdi Banur Aura.

