



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Saulo Okonyolo Okutoyi (Deceased) (Succession Cause
6 of 1997) [2023] KEHC 2703 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2703 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
SUCCESSION CAUSE 6 OF 1997**

WM MUSYOKA, J

MARCH 24, 2023

IN THE MATTER OF THE ESTATE OF SAULO OKONYOLO OKUTOYI (DECEASED)

RULING

1. The application, dated 30th December 2020, invites me to confirm the grant herein. The deceased is said to have been survived by 2 sons, 1 daughter and 1 grandson, being Stanley Outa Okonyolo, Philip Okuyoyi Outa, Anna Chibole Aswani and Eliakim Oketi. The assets presented for distribution are Marama/Lunza/2017, Marama/Lunza/2681 and Marama/Lunza/2682. The assets are distributed between the sons, Outa Okonyolo and Philip Okuyoyi Outa.
2. A supplementary affidavit was filed on 28th September 2021, where the list of survivors and beneficiaries changes, as it now indicates that the deceased had 5 sons and 5 daughters. The 5 sons are said to be Stanley Outa Okonyolo, Fredrick Nasengo, Wilson Obwayo, Eliakim Oketi and Ruphas Oketch. The 5 daughters are said to be Felister Namukuru, Agnes Amaya, Belinda Anangwe, Anna Chibole and Nechesa Saulo. The assets available for distribution also changes, as it is indicated that only Marama/Lunza/2017 that formed part of the estate. Marama/Lunza/2681 and Marama/Lunza/2682 are said to belong to the late Wilson Obwayo and Stanley Outa Okonyolo, as joint proprietors. It is proposed that Marama/Lunza/2017 be shared out amongst 2 children out of the 10 children of the deceased, being Stanley Outa Okonyolo and Eliakim Oketi. A share is allocated to John Oprian Maina, who is said to be a liability. There is a Form 37, consent on distribution, dated 20th September 2021, signed only by 1 son, Stanley Outa Okonyolo, and the liability, John Oprian Maina.
3. The administrator, Stanley Outa Okonyolo, swore a further affidavit, on 26th November 2021. He averred that 6 children of the deceased had died, and had been survived by 4 children, then again he says that they were not survived by children.
4. When the matter came up for hearing, on 15th June 2021, I directed that Eliakim Oketi and Anna Chibole be made available. Belinda Anangwe attended court on 26th April 2022. She disclosed that the deceased had 5 sons, out of which 2 are alive. She stated that those who died had children of their own. The late Ruphas Oketch was said to have been survived by 3 children. The late Olubwayo was said to



have had 2 children, 1 of whom was alive. She said that although she was not aware of the distribution proposed, she was agreeable to it.

5. On 26th April 2022, I directed that children of the late Ruphas Oketch and the late Wilson Olubwayo be availed. Jonathan Atsulu Oketch, son of the late Ruphas Oketch , was availed on 13th June 2022. He indicated that he was aware that his father had not been allocated a share in the estate, and he had no objection. Flora Shibia Olubwayo, daughter of the late Wilson Olubwayo, was availed on 13th June 2022, and said she was the only surviving child of her father. She said that she was aware that her grandfather's estate was being distributed, and she had no objection to the proposals, for the deceased had distributed his estate during his lifetime. Magdalene Omukanda Okonyolo, a daughter of the deceased, curiously not listed in the papers filed by the administrator, was also in attendance, she said she had no objection, as the deceased had distributed his estate before he died.
6. In this matter, I went out of my way to get the administrator to get the survivors of the deceased to attend court for confirmation. There is evidence that notices were served, but only a few of the survivors attended court. The impression created was that the deceased had distributed his property during his lifetime, and the parties were happy with that. Consequently, I shall allow, as I hereby do, the distribution proposed in the consent to confirmation of grant, dated 20th September 2021, filed herein on 28th September 2021. A certificate of confirmation of grant shall issue accordingly.

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

WM MUSYOKA

JUDGE

Erick Zalo, Court Assistant.

Ms. Aligula, instructed by Akwala & Company, Advocates for the administrator.

