



In re Estate of Simple John Muga Jacob Othoth (Deceased) (Succession Cause 233 of 2010) [2023] KEHC 3001 (KLR) (24 March 2023) (Ruling)

Neutral citation: [2023] KEHC 3001 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 233 OF 2010**

RE ABURILI, J

MARCH 24, 2023

**IN THE MATTER OF THE ESTATE OF SIMPLE
JOHN MUGA JACOB OTHOTH (DECEASED)**

IN THE MATTER OF

**HERICK PHILIP MUGA 1ST APPLICANT
JOSEPH OUMA MUGA OTHOTH 2ND APPLICANT
NAFTALLY OGALLO MUGA 3RD APPLICANT**

RULING

1. On June 28, 2010, a grant of letters of administration intestate was issued to Herick Philip Muga, Joseph Ouma Muga Othoth and Naftally Ogalo Muga to administer the estate of John Muga Jacob Othoth, deceased.
2. That grant was confirmed and a certificate of confirmation was issued on 5th March 2018 distributing the assets of the estate to the administrators who were also stated to be the sole beneficiaries equally. However, the petition for grant filed on 14th April 2020 is supported by the Chief's letter dated June 27, 2005 listing other persons as beneficiaries namely: Anjeline Ogot Muga – 1st wife, Gladys Owidi Muga – 2nd Wife, John Edward Okoth, Fredrick Ochieng Muga, Elijah Agai Muga and Karilus Ogola Muga as sons.
3. Another letter dated August 13, 2008 written by the chief also identified beneficiaries in terms of the 2 houses and there are also daughters and sons in both houses. Maurice Nudi is one of the sons who was named among other children.
4. On March 8, 2013 the seven (7) daughters are alleged to have signed a consent agreeing to the mode of distribution proposed.



5. I am unable to trace any renunciation by the other sons of the deceased although the grant was confirmed on May 21, 2013. That certificate of confirmation was reissued on March 5, 2018 including more properties.
6. By summons for rectification of grant dated November 6, 2020 which is still pending in court for determination, the administrator, Naftally Ogallo Muga now seeks for the further rectification of the confirmed grant claiming that some extra pieces of land were omitted from the distribution list.
7. There is no affidavit sworn by all administrators seeking for the orders of rectification.
8. As the application was filed by one administrator without authorization by the other administrators and the applicant has not bothered to attend court to prosecute the application which I find to be fatally defective, I hereby dismiss the summons for rectification of grant dated November 6, 2020.
9. The parties to be notified that any application must be by all administrators and the same shall only be considered in a fresh Miscellaneous Succession Cause file to be opened.
10. This file is closed but may be availed only for institutional memory in the new file that may be opened upon the administrators filing a competent application.
11. File closed.
12. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 24TH DAY OF MARCH, 2023

R. ABURILI

JUDGE

