



**In re Estate of Justo Oyugi Omonge (Deceased) (Succession Cause
777 of 2008) [2023] KEHC 22670 (KLR) (25 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 22670 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 777 OF 2008
RE ABURILI, J
SEPTEMBER 25, 2023
IN THE MATTER OF THE ESTATE OF JUSTO OYUGI OMONGE (DECEASED)**

**IN THE MATTER OF
PENINA ACHIENG OYUGI 1ST APPLICANT
NORMAN WILSON OMONGE OYUGI 2ND APPLICANT
JANET RUTH OYUGI 3RD APPLICANT**

RULING

1. This Succession cause was filed on 19th December 2008 and relates to the estate of the deceased Justo Oyugi Omonge who died on 9th January 2008 aged 74 years. The grant was issued to Penina Achieng Oyugi who is the 1st Widow, and two children Janet Ruth Oyugi and Norman Wilson Omonge Oyugi on 23rd March 2009 to administer the estate of the deceased.
2. The sole property which was known to be available for distribution was Nairobi LR No. 109/8494 (IR 29235) which is a residential property from which rent is collected and shared among the beneficiaries who together with the administrators, are 17 in number. The grant was confirmed on 27th July 2010.
3. The administrators have now filed an application dated 8th August seeking for review of the order confirming the grant made on 16th July 2010 and that upon such review, an amended certificate of confirmation of Grant including the deceased's shares held in Elliot's Bakeries Limited, Standard Chartered Bank of Kenya Limited, British American Tobacco Kenya Limited and Kenya Airways Limited be issued to the Administrators of the deceased estate.
4. It is deposed in the supporting affidavit of Norman Wilson Omonge Oyugi one of the administrators that they did not know of the existence of the now discovered assets at the time of petitioning for grant or confirmation. That the shares in the companies stated above, if not claimed, will be surrendered to unclaimed Financial Assets Authority, which will delay the transmission of the shares to the administrators.



5. I have considered the application which was argued orally by Mr. Omondi Advocate for the administrators and perused the succession file and I observe that in P&A 54 dated 18th December 2008, the only asset which was listed was Nairobi LR No. 209/8494 (IR 29235).
6. As the estate comprised beneficiaries who have not filed consents on the proposed mode of distribution of the remainder of the shares, and having perused the letter on Unclaimed Financial Assets Authority, I grant the prayers sought in the application dated 8th August 2023 in the following terms:
 1. That the order made on 27th July 2010 confirming the grant issued to the Petitioners on 23rd March 2009 be and is hereby reviewed and set aside.
 2. That in its place, and in substitution thereof, an order be and is hereby issued including in the estate of the deceased the following Assets as being available for distribution to the beneficiaries of the estate as listed in the now substituted certificate of confirmation of grant.
 - i. Shares and dividends accrued in Elliot's Bakeries Limited Certificate No. 2740.
 - ii. Shares and dividends accrued in Standard Chartered Bank of Kenya Limited share Account No. 33722.
 - iii. Shares and dividends accrued in British American Tobacco Kenya Limited. Certificate No. 00013495 Account No. 047500.
 - iv. Shares and dividends accrued in Kenya Airways Limited Shares Account No. 26737.
 3. That as the estate of the deceased is polygamous, the shares and dividends shall be transferred to the Administrators of the estate to hold in trust for all and each of the beneficiaries. Any dividends accruing therefrom shall be shared equally among all the beneficiaries.
 4. Should the beneficiaries agree to have the said shares in the listed companies sold, the proceeds of sale shall be shared equally amongst all the beneficiaries of the estate.
 5. An amended certificate of confirmation of grant to issue forthwith reflecting the orders herein.
7. This file is now closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 25TH DAY OF SEPTEMBER, 2023

R. E. ABURILI

JUDGE

