



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Enos Saoke Oliech (Deceased) (Succession Cause
17 of 2016) [2023] KEHC 24451 (KLR) (26 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 24451 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 17 OF 2016
RE ABURILI, J
OCTOBER 26, 2023
IN THE MATTER OF THE ESTATE OF ENOS SAOKE OLIECH (DECEASED)

IN THE MATTER OF
EVANS OLIECH SAOKE PETITIONER**

RULING

1. This date was taken on 7th September 2023 in the absence of parties before the Deputy Registrar. There is no evidence that the Petitioner or his advocate was served.
2. On record is summons for confirmation of grant dated 14th September 2020 which has never been prosecuted. However, I also observe that the Petitioner's affidavit and schedule of distribution of the estate is skewed in that there is no proper proposal for distribution of the estate to the beneficiaries listed by the Chief in his letter of 19th October 2015. A Petitioner or administrator is not an owner of the estate property but a trustee and at the confirmation of grant stage, all beneficiaries must be listed and each of them assigned a portion or share in the estate property.
3. The administrator cannot take whole property as that would amount to disinheriting the other beneficiaries through a court process. Even in transmission, the Petitioner would only get a transmission before subdividing the land to the beneficiaries.
4. In this case, as there is no proper proposed mode of distribution of the two parcels of land in favour of the beneficiaries of the estate, I hereby decline the summons for confirmation of grant dated 14th September 2020 and dismiss it. The Petitioner is directed to file a proper summons for confirmation of grant and annex a schedule of distribution of the estate of the deceased.
5. In addition, as there is no evidence that the estate property exceeds Kshs.20,000,000, I hereby order that this file be forthwith transferred to Nyando Senior Principal Magistrate's Court for further consideration of the succession cause, where the Petitioner will be required to file a fresh summons



for confirmation of grant listing all beneficiaries and their respective shares in the estate and further apportioning the shares of each beneficiary for consideration by the court.

6. All the beneficiaries of the estate as listed by the Chief in his letter dated 19th October 2015 (Chief Oboch Location, must attend court during confirmation of the grant.
7. This order to be served upon the Petitioner or his advocate as the Deputy Registrar proceeds to forward the file to Nyando SPM's court to notify the Petitioner to file summons for confirmation of grant.
8. From Kisumu High Court, this file is closed.
9. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 26TH DAY OF OCTOBER, 2023

R. E. ABURILI

JUDGE

