



REPUBLIC OF KENYA



**In re Estate of Thomas Shombe Miyawa (Deceased) (Succession Cause 439 of 2007) [2023] KEHC 26026 (KLR) (30 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 26026 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
SUCCESSION CAUSE 439 OF 2007  
RE ABURILI, J  
NOVEMBER 30, 2023  
IN THE MATTER OF THE ESTATE OF THOMAS SHOMBE MIYAWA –  
DECEASED  
AND  
IN THE MATTER OF AN APPLICATION BY MARGARET ACHIENG  
SHOMBE & MAXWEL OMONDI SHOMBE - PETITIONER**

**RULING**

1. This Succession Cause was filed in 2007. A grant was issued on 3<sup>rd</sup> September 2007 to Margaret Achieng Shombe and Maxwel Omondi Shombe as administrators of the estate of the late Thomas Shombe Miyawa.
2. There were minor children of the deceased.
3. On 4<sup>th</sup> April 2008, the grant was confirmed and from the record, part of the estate was distributed, being money held in Standard Chartered Bank as per the letter of 4<sup>th</sup> April 2008.
4. The Administrators have never filed into court a true and accurate account of the distribution of the estate as required under Section 83 of the *Law of Succession Act*.
5. In addition, the property land parcel No. Kisumu/Korando/1995 was to be registered in the administrator's names as whole meaning they were to be the sole owners which is erroneous because there are other beneficiaries of the estate and therefore there ought to have been a distribution to each one of them, and in the case of minors, the administrators would hold the shares of minors in trust for the minors.
6. In the absence of evidence of full distribution of the estate of the deceased and due to lapse of time, I find the grant which was issued on 3<sup>rd</sup> September 2007 and confirmed on 4<sup>th</sup> April 2008 inoperative and useless.



7. The family to petition for a fresh grant before the Chief Magistrate's court which has jurisdiction over the matter as the estates value is unlikely to exceed Kshs.20,000,000/=.
8. This file is closed and shall not be opened.
9. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 30<sup>TH</sup> DAY OF NOVEMBER, 2023**

**R. E. ABURILI**

**JUDGE**

