



REPUBLIC OF KENYA



KENYA LAW
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In re Estate of William Ochieng Ogwang (Deceased) (Succession Appeal 1 of 2018) [2022] KEHC 14254 (KLR) (23 September 2022) (Ruling)

Neutral citation: [2022] KEHC 14254 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION APPEAL 1 OF 2018
RE ABURILI, J
SEPTEMBER 23, 2022**

(From the Ruling of the Hon. Mbulikah P. (RM) delivered on 13th February 2018 in Chief Magistrate Succession Cause No 195 of 2016)

RULING

1. I have considered the Applicant's application dated September 19, 2022. I certify it as urgent.
2. On the merits thereof, I observe that the application is filed in non-contentious proceedings. It is headed "Summons for confirmation of Grant."
3. However, the record shows that the grant was not confirmed before this court as this was just an appeal arising from P&A Matter. The appeal as filed was however withdrawn vide notice of withdrawal dated August 19, 2019 and an order of this court made on September 16, 2019 adopting the notice effectively marked the appeal as wholly withdrawn. The appeal having been withdrawn, there is nothing left to be handled by this court, such that no other proceedings can be initiated in a file whose proceedings are not alive and incapable of being revived.
4. The applicant, despite filing the summons for revocation of grant, has sought for orders correcting names of one of the beneficiaries Jennifer Faith Atieno. Regrettably, this court which did not issue or confirm the grant and this appeal having been withdrawn, it has no power or jurisdiction to correct such grant or certificate of confirmation of grant that were never issued by this court.
5. The Applicant should have filed the application or summons before the court which issued and confirmed the grant as the lower court file is not available in this court. The file was returned to the Magistrate's court at Kisumu following withdrawal of the appeal as above.
6. For the above reasons, I find the application by the applicant dated September 19, 2022 misplaced. The same is hereby dismissed and the file herein is accordingly closed for archiving.
7. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 23RD DAY OF SEPTEMBER, 2022.



R. E. ABURILI
JUDGE

