



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**In re Estate of Sheikh Kutbuddin Karimbahi alias Kutbudin Kurban Karimbahi (Deceased)
(Succession Cause 756 of 1989) [2022] KEHC 14206 (KLR) (Family) (26 October 2022) (Ruling)**

Neutral citation: [2022] KEHC 14206 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 756 OF 1989
AO MUCHELULE, J
OCTOBER 26, 2022**

BETWEEN

MUNIRA KUTBUDIN KURBAN HUSSEIN KARIMB APPLICANT

AND

KEZARALI K.H. KARIMBHAI RESPONDENT

RULING

1. The deceased Sheikh Kutbuddin Karimbahi alias Kutbudin Kurban Karimbhai died intestate on June 26, 1988. He is survived by his wife Rajan Kutbuddin K. Kurimbhai and the following children:-
 - a. Farida Kutbudin Karimbhai;
 - b. the applicant Munira Kutbudin Kurban Hussein Karimb;
 - c. Batul Kutbudin Sheikh Kurban Hussein;
 - d. Fatima Kutbudin Kurban Hussein Karimbhai;
 - e. Rashida Kutbudin Kurban Karimbhai; and
 - f. Zainab Kutbudin Karimbhai.
2. A grant of letters of administration was issued to the widow Ratan Kutbuddin K. Karimbhai on October 5, 1989. Ezarali K.H. Karimbai (the respondent) was subsequently joined as a co-administrator, and on February 2, 1990 the grant was confirmed.
3. The estate of the deceased was joint account at Pan African Bank Ltd between the deceased and his widow and profits from Karimbhai and Sons.



4. The deceased's widow died on December 7, 2006 leaving the respondent as the only administrator. The applicant's case is that at the time of the grant all the deceased's children were minors, the deceased's widow has died and the respondent is elderly and has failed to complete the administration. In the present application dated December 31, 2019 he sought the revocation of the grant as it has become useless and inoperative. She seeks that she be appointed to be the new administratrix of the estate to complete the administration.
5. Further, her case was that there is parcel LR No. 209/5084 which belonged jointly to the deceased and his widow, and that since the widow died the property has become the free property of the estate which in the new grant, which should be confirmed, should go to the beneficiaries. Lastly, the deceased's other name Kutbudin Kurban Kariambhai should be added in the grant and certificate of confirmation as it appears in the title.
6. The deceased's children supported the applicant by filing the consent. The respondent was served but did not file a response.
7. It is now trite that where a grant was issued to two administrators, and one dies, the same becomes useless and inoperative and should be revoked (*Andrea Ruitibibu R. Kanyiri -v- Teresia Njoki Mbugu*, HC at Nyeri Succ No. 171 of 2007).
8. Secondly, following the death of the deceased's widow, parcel LR No. 209/5084 that she jointly owned with the deceased has become the free property of the deceased and available for distribution to the beneficiaries. Lastly, the name of the deceased on the title shall be added to the name in the new grant and certificate of confirmation as his other name.
9. Consequently, the following orders shall issue:-
 - a. the grant that was issued to Rajan Kutbuddin K. Karimbai and Kezarali K.H. Karimbhai is hereby revoked and the certificate of confirmation set aside;
 - b. a fresh grant and certificate of confirmation in respect of the estate of the deceased Sheikh Kutbuddin Karimbhai alias Kutbudin Kurban Karimbhai shall issue to Munira Kutbuddin Kurban Hussein Karimb;
 - c. land parcel LR No. 209/5084 shall be included in the certificate of confirmation and be owned jointly by all the children of the deceased in equal shares; and
 - d. costs shall be borne by the estate.

DATED AND DELIVERED ELECTRONICALLY AT NAIROBI THIS 26TH DAY OF OCTOBER 2022

A.O. MUCHELULE

JUDGE

