



REPUBLIC OF KENYA



**In re Estate of Juma Gathecah (Deceased) (Succession Cause
24 of 1997) [2021] KEHC 9794 (KLR) (28 May 2021) (Ruling)**

Neutral citation: [2021] KEHC 9794 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
SUCCESSION CAUSE 24 OF 1997**

JN ONYIEGO, J

MAY 28, 2021

RULING

1. The deceased herein died intestate on July 1, 1998 leaving behind 10 children. On March 25, 1997, Alfonse Gachoka petitioned for a grant of representation. The same was granted on March 13, 2009 and then confirmed on June 18, 2010.
2. By an application dated December 1, 2020, George Gatheca a son to the deceased administrator and therefore a grandson to the deceased moved to the court seeking a grant of letters of administration *debonis non* issued to him following the death of his father the only administrator who died on July 25, 2020. That the only surviving child to the deceased one Michael Ng'ang'a Kinyanjui is sickly hence cannot administer the estate to completion. As proof of his death, a death certificate of Alphonse Gachoka the deceased administrator was attached.
3. The application is supported by an affidavit sworn by George Gatheca the applicant herein who stated that the estate has un-administered assets which needs an administrator to complete the process. During the hearing, the court demanded for the attendance of Michael the only surviving child of the deceased who renounced his right to be appointed as the administrator being the only person entitled in priority.
4. Mr. Odongo appearing for the applicant urged the court to allow the application. He basically relied on the averments contained in the affidavit in support of the application. I have considered the application herein and the affidavit in support. There is no dispute that the appointed administrator is deceased. The only surviving child to the deceased is sickly and unable to administer the estate. He is not opposed to the grant *debonis non* being issued to the applicant.
5. Under Section 76 (e) of the *Law of Succession*, where an administrator dies, the grant is rendered useless and inoperative. Since there is no administrator, the grant is effectively revoked and a grant of letters of administration *debonis non* to issue to the applicant as the sole administrator for purposes of completing the administration of the un-administered part of the estate.

DATED SIGNED AND DELIVERED VIRTUALLY AT MOMBASA THIS 28TH DAY OF MAY 2021



J N ONYIEGO
JUDGE

