

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT VIHIGA

SUCCESSION CAUSE NO. 36 OF 2021

IN THE MATTER OF THE ESTATE OF JAMES KISALA OGWUMA (DECEASED)

RULING

1. The summons, dated 27th April 2021, seeks substitution of a dead administrator, and confirmation of the grant, subsequent upon the substitution. The person who seeks confirmation is not an administrator, and there is no grant in force. There would be no basis to deal with the confirmation of a non-existent grant. I will deal only with appointment of a fresh administrator or administrators in this ruling.
2. A certificate of death in respect of the dead administrator should have been annexed or exhibited, given that the certificate of death is the official document in Kenya, upon which death is established. I am nonetheless satisfied that there is adequate proof of death from the documents attached. I note that there could be more than three persons who have signed up to the application. Every survivor of the deceased ought to be involved in the appointment of administrators. That avoids the filing of applications thereafter to challenge the appointment. For now, I will revoke the grant made on 8th October 2012, to pave way for appointment of fresh administrators. The deceased had three wives, and all three houses ought to be represented in the administration.
3. I shall give a date, at the delivery of this ruling, when Edward Siva Kisala shall bring all the children of the deceased, and grandchildren and daughters-in-law of the deceased whose own parents and husbands, sons of the deceased, are dead, so that the court can appoint administrators acceptable to all the survivors of the deceased. The Deputy Registrar shall cause the date to be given in the event this ruling is delivered in the absence of the parties, to be circulated to Edward Siva Kisala and the others.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 26TH DAY OF NOVEMBER 2021

W MUSYOKA

JUDGE