



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT HOMA BAY**

**SUCCESSION CAUSE NO.4 OF 2013**

**IN THE MATTER OF THE ESTATE OF: MARGARET ONYANGO  
MBADI & JAMES OMOLLO MBADI ..... DECEASED**

**BETWEEN**

**WAO AENDE ..... 1<sup>ST</sup> OBJECTOR**

**JARED OKOTH ODERA ..... 2<sup>ND</sup> OBJECTOR**

**KUNGU ODERA ..... 3<sup>RD</sup> OBJECTOR**

**VERSUS**

**JOSHUA OTIENO MISADHI ..... 1<sup>ST</sup> PETITIONER/RESPONDENT**

**JAMES OMOLLO OGOMA ..... 3<sup>RD</sup> PETITIONER/RESPONDENT**

**RULING**

1. **MARGARET ONYANGO MBADI** and **JAMES OMOLLO MBADI** died on 13<sup>th</sup> November 2007 and 15<sup>th</sup> June 1994 respectively. Their daughter namely **NEREAH AJWANG**, **PENINAH AWUOR** and **ROSA OYUGI ODIPO** were issued with grant of letters of administration on 6<sup>th</sup> November 2014. Thereafter a certificate of grant dated 12<sup>th</sup> February 2016 was issued reflecting the asset for distribution as Land Parcel **NO. KANYADA/K/KATUMA'A'/613** and **KANYADA/K/KATUMA'A'/1403** which were left out in the certificate. The administrators now pray that the grant be rectified so as to include the said parcels.

2. It is also indicated that one of the beneficiaries namely **NEREAH AJWANG ACHAR** died on 25<sup>th</sup> October 2015 after the grant had been issued but not confirmed, leaving the surviving two sisters namely **PENINA AWUOR** and **ROSA OYUGI ODIPO** to whom the estate should be apportioned as follows:-

a) **PENINA AWUOR** to own Land Parcel No. **KANYADA/K/ KATUMA'A'/613** whole.

b) **ROSA OYUGI ODIPO** to own parcel **NO. KANYADA/K/ KATUMA'A'/522** while and **KANYADA/K/KATUMA'A'/1403** whole.

3. I have perused the record and noted that a search document dated 2/2/2012 shows parcel **NO. KANYADA/K/KATUMA 'A'/1403** was registered in the name of **MARGARET ONYANGO**

**ODIPO.** I require a current search to confirm the status of the property.

4. I have failed to find any document in the record concerning ownership of parcel **NO. KANYADA/K/KATUMA'A'/613.**

5. The applicants failed to attach current search documents in relation to the properties and I am unable to verify the current registered owners of **NO.1403** and whether **613** was ever owned by either of the deceased.

6. It is also said that **NEREAH AJWANG ACHAR** is now deceased but there is no document annexed to prove that. I would expect copy of a death certificate – none was presented. In any event the situation does not lie in dropping off **NEREAH's** interest, but in nominating her offspring to benefit from her share.

7. It is on account of these loop-holes that I decline to grant the prayers for rectification. The application is thus dismissed.

**Delivered and dated this 24<sup>th</sup> day of March, 2017 at Homa Bay**

**H. A. OMONDI**

**JUDGE**