



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI LAW COURTS**

**SUCCESSION CAUSE NO.3616 OF 2004**

**IN THE MATTER OF THE ESTATE OF JOASH OKETCH OCHIENG alias JOASH ELIAKIM  
OKETCH (DECEASED)**

**DORINE ADHIAMBO OKETCH ..... APPLICANTS**

**SELINE ATIENO OKETCH**

**VERSUS**

**PAMELA AWUOR AKOKO ..... RESPONDENT**

**GEORGE OTIENO OKETCH**

**JUDGMENT**

The Applicants Dorine Adhiambo Oketch filed the application on 25<sup>th</sup> February 2015 seeking the following orders;

- a. The administrators Pamela Awour Akoko and George Otieno Oketch file a full and comprehensive statement of account of the estate covering the entire period of their administration within 30 days.
- b. The estate be distributed in accordance with the law.
- c. Any further orders of the Court.

Counsel for the Applicants submitted in Court that the estate of the deceased has not been distributed for ten (10) years. The petition lists the assets of the deceased's estate namely;

- a. House No. 209/4401/266 – Makadara
- b. Land No. APP(24 Acres) YIMBO LOCATION BONDO
- c. House Plot 209/6571 MAKADARA are all rent paying/generating properties and,
- d. Plot No. 3 (DEVELOPED) BAR OKMIRI YIMBO, BONDO

There are Savings Accounts;

- a. BARCLAYS BANK BONDO KISUMU BRANCH
- b. KCB BANK BONDO BRANCH

c. SHARES WITH KENYA BREWERIES.

The administrators ought to declare the bank proceeds and balances and their position with regard to the shares of the deceased. They were accused of not discharging their statutory mandate under **Section 83 of Law of Succession Act Cap 160**.

The Respondent/administrators **Ms PAMELA AWUOR AKOKO** and **GEORGE OTIENO AKETCH** through Counsel stated as follows; relying to the Replying Affidavit filed on 25<sup>th</sup> February, 2015;

- a. They obtained a grant that was issued on 2<sup>nd</sup> March, 2005.
- b. Dorine Adhiambo, Selina Atieno Oketch, Philister Atieno Okech and Tobias Odhiambo Okech collected rent from premises **L. R. No. 209/6329 Makadara Estate** without authority from the administrators. They administrators wrote to them vide the letter marked **“PAA1”** from the administrators’ lawyer dated 8<sup>th</sup> March, 2012.
- c. Any attempts to distribute the estate of the deceased have been futile as illustrated by correspondence marked **“PAA 2”**. Consents to confirm action of grant form is partly signed and partly blank which shows that all beneficiaries have not consented.
- d. There is ample evidence in force that Seline one of the applicants vide a letter dated 9<sup>th</sup> November, 2001 instructed her lawyers to deposit all the monies held by administrators on behalf of the deceased’s estate to be deposited in her account which she has not accounted for to date.
- e. The administrator resides in L.R. No.209/6571 Jericho Lumumba Estate.
- f. The Applicants collect rent from **L. R. 2009/4401/266 Makadara** which consists of seven (7) rooms and have not shared rent receivables with other beneficiaries.
- g. Seven (7) beneficiaries have since died before the estate has been distributed.
- h. Despite efforts to meet and discuss and agree on the mode of distribution the efforts have been futile.

The Court confirmed from the Court record specifically the Petition that the beneficiaries of the estate of the deceased comprise of four (4) wives of the deceased and children as outlined by the letter from the chief dated 27<sup>th</sup> July, 2004.

The administrators are from the 1<sup>st</sup> and 3<sup>rd</sup> family only the 2<sup>nd</sup> family is not represented hence the application for revocation and annulment of grant filed 12<sup>th</sup> January, 2009 by the Respondents herein.

Be that as it may, the estate of the deceased has remained undistributed for almost 10 years now. **Section 83 of Law of Succession Act Cap 160** enumerates the duties of the administrators, in a nutshell to gather and collect the assets that comprise the estate of the deceased and after payment of all the deceased’s liabilities, prepare mode of distribution for the confirmation of grant and written consents of all beneficiaries. Apparently from the pleadings it has been an uphill task. The matter has generated into sibling rivalry, acrimony and hostility with accusations and counter accusations by and to each other.

In order to make headway and facilitate and expeditious distribution of the deceased’s estate, the Court orders as follows;

- a. The administrators jointly give the Court a full and accurate inventory of the properties enumerated in the petition within 60 days.
- b. The Applicants to account for the rent receivables with regard to **L. R. 209/6329 Makadara** within 60 days.
- c. Ms. Selina Atieno Okech to account for the proceeds transferred to her account vide letter dated 9<sup>th</sup> November, 2001 to the Court within 60 days.
- d. Ms Pamela Awuor Atieno to account for **L.R. No. 209/6571 Jericho Lumumba** to Court within 60 days.
- e. The Applicants Dorine Adhiambo and Seline Atieno Oketch and the Respondents/administrators Pamela Awuor Akoko and George Otieno Oketch to open a joint account to collect and deposit all rent collected from properties of the deceased, pay utilities and legal costs and account to all

- beneficiaries before distribution. They should be done within 30 days.
- f. The administrators to file their proposed mode of distribution under summons for confirmation application within 90 days.
  - g. Any of the beneficiaries who objects/protests to file the protest and alternative proposal or mode of distribution and serve the other parties within 30 days of service of the summons for confirmation of grant of the estate of the deceased application to be heard and determined by the Court.
  - h. The administrators may engage the service of a valuer to value the properties to aid in the proposed mode of distribution.
  - i. No orders as to costs each party to bear its own costs.
  - j. Any aggrieved party may apply.

**READ AND SIGNED IN OPEN COURT AT NAIROBI THIS 28TH DAY OF JULY 2015.**

**M. MUIGAI**

**JUDGE**

***In the absence of:***

***Parties and Counsel for the parties***