



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Chorenelio Okumu (Deceased) (Succession Cause  
151 of 1989) [2025] KEHC 1831 (KLR) (21 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1831 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
SUCCESSION CAUSE 151 OF 1989  
WM MUSYOKA, J  
FEBRUARY 21, 2025**

**RULING**

1. The application that I am called upon to determine is dated 17<sup>th</sup> September 2024. It seeks revocation of a grant made on 5<sup>th</sup> July 1990, and confirmed on 18<sup>th</sup> January 1991, and the making of a fresh grant to the applicant and another. It also seeks rectification or modification of a certificate of confirmation of grant, issued on 14<sup>th</sup> September 2022, to revoke or annul the re-distribution of Bukhayo/Mundika/395. It also seeks that a transmission that had been done, based on the certificate of confirmation of grant of 18<sup>th</sup> January 1991, which was revoked on 15<sup>th</sup> March 2022, be reversed, and the property restored to the name of the deceased.
2. The application was first mentioned on 18<sup>th</sup> September 2024, before me, when I allocated it a date for inter partes hearing on 16<sup>th</sup> October 2024. Come 16<sup>th</sup> October 2024, I was informed that it had been served, but an affidavit of service had not been filed. I stood it over to 18<sup>th</sup> December 2024, for hearing. On that date, I was informed that the application had been served on the interested parties, and a consent had been lodged, signed by the beneficiaries. I was urged to grant the application. I reserved it for ruling.
3. This is an old matter, where a variety of orders have been made over the years. Before I make any other orders, or give any directions, on the application, dated 17<sup>th</sup> September 2024, I will have to review what has happened in the matter since inception, to avoid making orders that are inconsistent or contrary to existing orders.
4. There is a ruling on record, that Tuiyott J delivered on 24<sup>th</sup> May 2016, on an application, dated 28<sup>th</sup> October 2014, that sought revocation of the grant made on 5<sup>th</sup> July 1990, and confirmed on 30<sup>th</sup> January 1991. The court concluded that it “finds merit in the Objectors application that the Court issued to the Petitioner on 5<sup>th</sup> July 1990 and confirmed on 30<sup>th</sup> January 1991 should be revoked.” The grant was, however, not revoked, for the court subsequently directed that the revocation application be served on the interested parties.



5. It fell upon Karanjah J, in his ruling of 15<sup>th</sup> March 2022, to make final orders on the application, dated 28<sup>th</sup> October 2014. It was concluded that the grant had been properly made, and confirmed, hence the court declined to revoke it. However, the court noted that there was a problem with the way the administrator went about transmitting the estate. It was observed that the certificate of confirmation of grant, issued to the administrator, dated 18<sup>th</sup> January 1991, did not conform with the orders of the court on distribution. It had been ordered that the estate be distributed equally, amongst the beneficiaries, but the certificate processed devolved the entire estate to the administrator. The court declared the said certificate null and revoked it. It was directed that a fresh certificate be issued, conforming with the confirmation orders made by the court on 18<sup>th</sup> January 1991, with such modifications or alterations as necessary to cater for the interests of the purchasers or interested parties. The grant of letters of administration intestate itself was not expressly revoked, and no new administrator was expressly appointed, but it was directed that the new certificate of confirmation be issued in the name of Kelesenjia Nafula Manyuru.
6. The effect of the orders of 15<sup>th</sup> March 2022, was that the then administrator was technically removed as administrator, and replaced with Kelesenjia Nafula Manyuru, for a certificate of confirmation of grant cannot be issued to a non-administrator, and transmission of the estate cannot be committed to nor carried out by a person who is not an administrator. The said orders were, no doubt, made with section 71(2)(a)(b) of the *Law of Succession Act*, Cap 160, Laws of Kenya, in mind, which prescribes what should happen where the court is not persuaded or satisfied, at confirmation, that the administrator had administered the estate in accordance with the law, upon being appointed, or would administer the estate in accordance with the law, upon being confirmed as such, to warrant his being confirmed to go on to distribute the estate. In such a scenario, the grant could be confirmed to another person.
7. Section 71(2)(a)(b) of the *Law of Succession Act* states:
 

“71. Confirmation of grants

  1. ...
  2. Subject to subsection (2A), the court to which application is made, or to which any dispute in respect thereof is referred, may—
    - a. if it is satisfied that the grant was rightly made to the applicant, and that he is administering, and will administer, the estate according to law, confirm the grant; or
    - b. if it is not so satisfied, issue to some other person or persons, in accordance with the provisions of sections 56 to 66 of this Act, a confirmed grant of letters of administration in respect of the estate, or so much thereof as may be unadministered; or
    - c. ...”
8. It is not clear to me whether a grant of letters of administration intestate was ever processed and issued, in the name of Kelesenjia Nafula Manyuru, based on the orders of 15<sup>th</sup> March 2022, but I see, in the record, that a certificate of confirmation of grant was processed, founded on the orders of 18<sup>th</sup> January 1991 and 15<sup>th</sup> March 2022, and issued, dated 14<sup>th</sup> September 2022, bearing the name of Kelesenjia Nafula Manyuru.
9. Subsequently, an application was mounted, dated 8<sup>th</sup> March 2023, seeking to rectify an error in the description of the estate asset, in the order, dated 14<sup>th</sup> June 2022, which was extracted from the ruling



of 15<sup>th</sup> March 2022. The application, dated 8<sup>th</sup> March 2023, was allowed on 21<sup>st</sup> November 2024, as it was not opposed. There was another application, dated 18<sup>th</sup> July 2023, which sought leave for an Advocate, who was acting for one of the parties in the matter, to cease acting for that party. It was allowed on 24<sup>th</sup> October 2023.

10. The review above reveals that the order sought in the principal prayer in the application, dated 17<sup>th</sup> September 2024, for revocation of the grant of 5<sup>th</sup> July 1990, is not available for granting. The grant it seeks to revoke does not exist. As stated above, the effect of the orders of 15<sup>th</sup> March 2022 was to technically revoke that grant, and appoint a new administratrix, Kelesenjia Nafula Manyuru. A grant of letters of administration intestate ought to have been processed and issued to her thereafter. Peter Okumu appears to believe that the ruling of 15<sup>th</sup> March 2022 had also appointed him into that office. I see nothing of that sort in that ruling.
11. That ruling, of 15<sup>th</sup> March 2022, did not interfere with the confirmation orders made on 18<sup>th</sup> January 1991, for it affirmed them, and directed that a certificate of confirmation of grant ought to issue, founded on those orders, but catering for the interests of the purchasers or interested parties. I understand that the rest of the prayers, in the application, dated 17<sup>th</sup> September 2024, are intended to give effect to the distribution ordered on 18<sup>th</sup> January 1991, as had been directed in the ruling 15<sup>th</sup> March 2022. Consequently, I believe that orders would be available with respect to some of them, to give effect to the orders made on 24<sup>th</sup> May 2016 and 15<sup>th</sup> March 2022.
12. The final orders shall, therefore, be:
  - a. That I decline to revoke the grant of 5<sup>th</sup> July 1990, as it is non-existent, and I instead direct that a grant of letters of administration intestate be processed and issued to Kelesenjia Nafula Manyuru, in conformity with the orders made in the ruling of 15<sup>th</sup> March 2022;
  - b. That the certificate of confirmation of grant, dated 14<sup>th</sup> September 2022, conforms with the orders of 18<sup>th</sup> January 1991 and 15<sup>th</sup> March 2022, and I hereby decline to revoke or rectify it;
  - c. That prayer (d) of the application, dated 17<sup>th</sup> September 2024, is hereby allowed;
  - d. That the new administratrix shall transmit the estate herein strictly in accordance with the orders of 18<sup>th</sup> January 1991, 24<sup>th</sup> May 2016 and 15<sup>th</sup> March 2022; and
  - e. That the matter shall be mentioned, after 6 months, on a date to be given by the Deputy Registrar, to confirm whether the administratrix has transmitted the estate.
13. Orders accordingly.

**DELIVERED VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 21ST DAY OF FEBRUARY 2025.**

**W MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Wanyama, instructed by Wanyama & Company, Advocates for the applicant.

Ms. Matoke, instructed by Magare Musundi & Company, Advocates for Violet Ratemo.

Mr. Jumba, instructed by Balongo & Company, Advocates for Godfrey Makokha Okanga.



Mr. Etole, instructed by Etole & Company, Advocates for Francis Gilbert Mwole Bwire.

