



REPUBLIC OF KENYA



**In re Estate of Makokha Wamania (Deceased) (Succession Cause  
387 of 2012) [2025] KEHC 2000 (KLR) (21 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2000 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
SUCCESSION CAUSE 387 OF 2012  
WM MUSYOKA, J  
FEBRUARY 21, 2025**

**IN THE MATTER OF THE ESTATE OF MAKOKHA WAMANIA (DECEASED)**

**RULING**

1. On 4<sup>th</sup> October 2024, I delivered a ruling herein, where I confirmed the grant herein, and made orders on devolution of the estate, among other orders.
2. Petronila Adhiambo Makokha and Albert Okuku Makokha are aggrieved by that ruling, and have filed a Motion, dated 16<sup>th</sup> December 2024, for leave to appeal out of time. They aver that they obtained a copy of the impugned ruling after the time for filing appeal had lapsed.
3. Philip Oundo Makokha has opposed that application. His affidavit was sworn on 13<sup>th</sup> January 2025. His principal argument is that the applicants were aware of the ruling as far back 12<sup>th</sup> November 2024, when the 2<sup>nd</sup> applicant collected a copy of the grant and certificate of confirmation, issued pursuant to the orders made in the said ruling.
4. Both sides argued the application orally, before me, on 15<sup>th</sup> January 2025.
5. The impugned ruling was delivered on 4<sup>th</sup> October 2024. The record reflects that a Francis Albert Makokha collected a copy of the grant issued on 17<sup>th</sup> October 2024, on 12<sup>th</sup> November 2024. Francis Albert Makokha is not one of the applicants, and I am not prepared to presume that he had anything to do with the applicants, nor that he had been sent by them.
6. Succession is about family property, most of which is usually ancestral land. There is emotional attachment to such property, and, so far as possible, parties should be given a chance to exhaust all avenues of redress, with respect to it, to get closure. Secondly, the applicants have a right to get a second opinion from an expanded bench.
7. Consequently, I shall extend the period within which the applicants should file appeal at the Court of Appeal, by granting them leave to lodge their appeal within the next 45 days of the date of this ruling.



8. To facilitate that process, let the administrators not transmit the estate herein in terms of the orders of 4<sup>th</sup> October 2024, pending the filing and hearing of the contemplated appeal. The stay order shall lapse, should the appeal not be filed within the 45 days that I have allowed.
9. The Deputy Registrar shall cause the proceedings herein to be typed, and made available to the parties, as soon as possible, subject to payment of the requisite fees and costs on typing and certification, if applicable.
10. Orders accordingly.

**DATED AND SIGNED AT BUSIA, AND DELIVERED IN OPEN COURT, ON THIS 21<sup>ST</sup> DAY OF FEBRUARY 2025.**

**W MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant.

Mr. Philip Oundo Makokha, administrator, in person.

Ms. Petronilla Adhiambo Makokha, 1<sup>st</sup> protestor, in person.

Mr. Albert Okuku Makokha, 2<sup>nd</sup> protestor, in person.

