



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Otego Oriama (Deceased) (Succession Cause
102 of 2008) [2025] KEHC 2588 (KLR) (14 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2588 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT BUSIA

SUCCESSION CAUSE 102 OF 2008

WM MUSYOKA, J

MARCH 14, 2025

IN THE MATTER OF THE ESTATE OF OTOGO ORIAMA (DECEASED)

RULING

1. The application, dated 15th April 2024, is for revocation of grant. It is at the instance of Merciliana Nekesa Otego and Agnes Abukala Otego. I was informed, on 22nd January 2025, when the application came up for hearing, that it had been served, and was unopposed. The record reflects that another summons for revocation of grant is still pending, dated 1st July 2021, which had also been filed by the same Merciliana Nekesa Otego and Agnes Abukala Otego.
2. It would be abuse of court process for these individuals to file 2 similar applications. There is no clear reason why the second application was filed despite the pendency of the earlier application. The only real difference between the 2 is that they were filed by different firms of Advocates. If the applicants fell out with their earlier Advocates, then the latter Advocates ought to have simply taken over the initial application and prosecuted it, or, if they found it incurably deficient, withdrawn it and file the latter one.
3. Be that as it may. These are proceedings for revocation of a grant. That grant was confirmed some 13 years ago, and I have no idea as to whether transmission of the estate has been done, in accordance with the said confirmation orders, of 2010. The property the subject of the confirmation orders was South Teso/Amukura/287. There is no evidence of transmission of that property. What has been attached, as evidence of transmission, is a green card for South Teso/Chakol/287. I have nothing to show that South Teso/Amukura/287 and South Teso/Chakol/287 are the same property.
4. In a scenario of this kind, it would be prejudicial, to the individuals to whom the confirmation orders favoured, for the court to determine the matter purely on affidavits, without all the beneficiaries, named in the confirmation orders, being notified of the proceedings. The application must be disposed of vide viva voce evidence. This matter shall be mentioned, on 20th March 2025, for allocation of a date, for viva voce hearing. The applicants have leave, of 14 days, to file a supplementary affidavit, to address the issues raised above. The application, dated 15th April 2024, shall be served on all the individuals



named in the certificate of confirmation of grant, dated 30th November 2020, and on Ipapu P. Jackah & Company, Advocates. It is so ordered.

DELIVERED VIA EMAIL, DATED AND SIGNED, AT BUSIA, THIS 14TH DAY OF MARCH 2025.

W. MUSYOKA

JUDGE

Arthur Etyang, Court Assistant.

Advocates

Mr. Makokha, instructed by JP Makokha & Company, Advocates for the applicants.

