



REPUBLIC OF KENYA



**In re Estate of Amos Acklays (Deceased) (Family Miscellaneous Application E070 of 2024) [2025] KEHC 2847 (KLR) (11 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2847 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
FAMILY MISCELLANEOUS APPLICATION E070 OF 2024**

**A MABEYA, J**

**MARCH 11, 2025**

**IN THE MATTER OF THE ESTATE OF AMOS ACKLAYS (DECEASED)**

**BETWEEN**

**PAULINE K KOKY ..... 1<sup>ST</sup> APPLICANT  
JULIAH H MIGOYE ..... 2<sup>ND</sup> APPLICANT  
JENIFFER J WASIANGA ..... 3<sup>RD</sup> APPLICANT  
ABIGAEAL O ANYANGO ..... 4<sup>TH</sup> APPLICANT**

**AND**

**ROY S AKALA ..... 1<sup>ST</sup> RESPONDENT  
SAMUEL S OKETCH ..... 2<sup>ND</sup> RESPONDENT  
JEREMIAH J OBIERO ..... 3<sup>RD</sup> RESPONDENT  
FELIX J AGANJO ..... 4<sup>TH</sup> RESPONDENT**

**RULING**

1. I have considered the representations of consents. I have considered especially the submission by Mr. Ogada that he needs to have the affidavit of protest dated 6<sup>th</sup> March, 2025 heard. He has also referred to Court to a pending application by Mr. Ken Omollo's client dated 13<sup>th</sup> December, 2012.
2. Firstly, the application dated 13<sup>th</sup> December, 2012 has never been a subject of any hearing. The fact that the grant was issued on 23<sup>rd</sup> October, 2012, that objection had been overtaken. In any event, for reason that the objectors are now in support of the confirmation, they are deemed to have abandoned the objection.



3. Secondly, Mr. Ogada's submission that he thought he had 14 days to file the affidavit of protest does not hold. The directions of 24<sup>th</sup> February, 2025 were in writing. The affidavit was supposed to be filed and served within 7 days and be responded to within a similar period.
4. Thirdly, this is a 2012 matter. Aburili J had given the protestor 14 days to file and serve the Protest on 28<sup>th</sup> November, 2024. He failed to comply. On 24<sup>th</sup> February, 2025, I thought of giving the protestor the last chance of being heard. Indeed, I gave a self-executing order so as to ensure the Protestor does not drag the matter any further. He decided to file the protest out of time; on 6<sup>th</sup> March, 2025 instead of 3<sup>rd</sup> March, 2025.
5. I have seen the Protest. Rather than condemn the protestor without being heard, I give the following direction: -
  - a. Let the Protest be prosecuted by way of submissions in writing.
  - b. The protestor to file and serve submissions within 14 days. In default the Protest will be deemed to have been unprosecuted.
  - c. The other parties do file and serve submissions within 14 days of 25<sup>th</sup> March, 2025.
  - d. Ruling on the protest on 9<sup>th</sup> May, 2025.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 11<sup>TH</sup> DAY OF MARCH, 2025.**

**A. MABEYA, FCI Arb**

**JUDGE**

