



REPUBLIC OF KENYA



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**In re Estate of Narwar Singh Bhogal (Deceased) (Succession Cause E034 of 2023) [2025] KEHC 6435 (KLR) (22 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6435 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
SUCCESSION CAUSE E034 OF 2023  
SM MOHOCHI, J  
MAY 22, 2025**

**IN THE MATTER OF THE ESTATE OF NARWAR SINGH BHOGAL**

**BETWEEN**

**HARBINDER SINGH BHOGAL ..... PETITIONER**

**AND**

**GURBAKASH SINGH BHOGAL ..... 1<sup>ST</sup> OBJECTOR**

**ONKAR SINGH BHOGAL ..... 2<sup>ND</sup> OBJECTOR**

**RANJIT SINGH BHOGAL ..... 3<sup>RD</sup> OBJECTOR**

**BHOPINDER SINGH BHOGAL ..... 4<sup>TH</sup> OBJECTOR**

**JASPAL SINGH BHOGAL ..... 5<sup>TH</sup> OBJECTOR**

**RULING**

1. Before Court for determination are two Applications. The first Application is the Summons by the Petitioner dated 17<sup>th</sup> January, 2025 brought under Sections 45(1) and 2(b) of the [Law of succession Act](#) seeking that: -
  - i. Spent
  - ii. Ranjit Singh Bhogal be compelled to transfer back the deceased 1,200 shares in R Bhogals Limited UK Company Number, 01243244 which he transferred on 29<sup>th</sup> February 2024.
  - iii. Ranjit Singh Bhogal whether by himself, his servants, agents, associates or otherwise be prevented from further interfering/intermeddling in any manner with any of the assets of the deceased as listed in the deceased's Will dated 2<sup>nd</sup> September, 2019 and in particular the deceased's 1,200 shares in R Bhogals Limited UK Company Number, 01243244 pending confirmation of Grant.



- iv. Ranjit Singh Bhogal whether by himself, his servants, agents, associates or otherwise be prevented from interfering/intermeddling in any manner whatsoever with any of the assets of the deceased as listed in the deceased's Will dated 2<sup>nd</sup> September, 2019 and in particular the deceased's 1,200 shares in R Bhogals Limited UK Company Number, 01243244 pending distribution of the estate to the beneficiaries.
- v. The Costs of the Summons be born by Ranjit Sing Bhogal

### **Petitioner's Case**

2. It was the Petitioner's case that on 5<sup>th</sup> January, 2025 he discovered that the 3<sup>rd</sup> Objector had intermeddled in the estate of the deceased in the United Kingdom by secretly transferring the deceased's 1,200 shares in Bhogals Limited having been aware that a Court Order was issued on 24<sup>th</sup> October, 2023 directing maintenance of the status quo. That it is just and fair to issue the prayers sought to ensure the estate is preserved.

### **3<sup>rd</sup> Objectors' Case**

3. 3<sup>rd</sup> Objector, Ranjit Singh Bhogal by way of Replying Affidavit sworn on 31<sup>st</sup> January 2025 deponed that the Application lacks merit and is a distraction from the forgeries committed by the Petitioner aided by his lawyer in which he seeks corrective measures against them.
4. He deponed further that R Bhogals Limited is a company listed in the United Kingdom and as such its ownership is subject the laws of the United Kingdom. That the Petitioner lacks capacity to seek disclosure of the activities of R. Bhogals Limited due to the defective and fraudulent Will relied upon and further that shareholding does not exist in the Will.
5. That the objection proceedings in this matter are underway and the determination and legality of the Will shall rest any further claims against family members whom the Petitioner has been fighting. It was his case further that the Deceased herein never had any legal ownership and that the shareholding was always held in trust and therefore the Petitioner has no entitlement to seek disclosure of any assets which do not form part of the deceased's Will.
6. That the reliefs sought of the alleged transfer of 1,200 shares in R. Bhogals Limited have already been filed and executed at the Companies House in the United Kingdom in accordance with the company law in the United Kingdom.
7. The Petitioner swore a Further Affidavit on 12<sup>th</sup> February, 2025 and averred that the shares were transferred contrary to the Court Order of 24<sup>th</sup> October, 2023 of maintaining status quo and as such was in Contempt. It was also averred that the transfer was illegal as the transfer should have waited until distribution of the estate.
8. The Second Application is the Notice of Motion Application dated 30<sup>th</sup> January, 2025 brought under Sections 47 and 54 of the Law of Succession Act and Rule 14 of the Probate and Administration Rules seeking substitution of the 1<sup>st</sup> Objector with the Applicant and that costs of the Application be provided for.

### **Applicant's Case**

9. The Application was supported by the Affidavit of Paramjit Singh Bhogal evenly dated on the grounds and averments that he is the son of the 1<sup>st</sup> Objector who passed away on 17<sup>th</sup> June, 2024.



10. That he obtained Grant of Letters of Administration Ad Litem on 5<sup>th</sup> November, 2024 for purposes of continuing the objection proceedings initiated by the deceased 1<sup>st</sup> Objector. It was his case that the unless the 1<sup>st</sup> Objector is substituted, his claim in the Objection proceedings will collapse and his beneficiaries disinherit. He argued that the Petitioner will suffer no prejudice should the same be allowed.

### **Petitioner's Case**

11. The Petitioner opposed the Application by way of Replying affidavit sworn on 12<sup>th</sup> February, 2025 and deposed that although the Applicant was a son of the 1<sup>st</sup> Objector, he has not provided evidence that he has direct interests in the deceased's estate, that the claims made by the Applicant's father do not extend to the son, that he is not a direct beneficiary of the deceased's Will and no personal loss has been demonstrated.
12. It was further averred that the fact that the 1<sup>st</sup> Objector was a party to the objection proceedings that does not automatically grant the Applicant standing to continue the case. That no concrete evidence has been presented to support the objection raised and therefore the objection is unfounded and only serves to prolong unnecessary litigation. That the Court ought to dismiss the Objection rather than substitute the 1<sup>st</sup> Objector with his son.
13. It was argued that a party who acts in bad faith and engages in disruptive litigation tactics is unfit to be granted discretionary relief such as substitution. It was also stated that the Limited Grant was obtained fraudulently without complying with the mandatory requirements of Rule 26 (2) of the *Probate and Administration Rules*.
14. The Court directed that both Application would be heard by way of written submissions. From the record, only the Petitioner complied.

### **Petitioner's Submissions**

15. As regards whether the Application dated 17<sup>th</sup> January, 2025 has merit, it was submitted that the Court needs to determine whether R. Bhogals Limited formed part of the estate of the deceased and whether the deceased had shares in the said company.
16. It was the Petitioners' contention that the 3<sup>rd</sup> Objector, admitted to the issue of shareholding, therefore that was not in dispute. The issue that the Company has been listed in the Will of the deceased and the aspect of holding the shares in trust is not subject to this Application and can only be determined with finality in the Objector proceedings.
17. On whether there was intermeddling, reliance was placed in *Gladys Nkirote M'Itunga vs Julius Majau M'itunga* [2016] eKLR and *in the matter of the Estate of M'Ituruchu M'Rimberia (Deceased)* [2019] eKLR to submit on the appropriate orders to be issued in cases of intermeddling with the free property of a deceased. That since the 3<sup>rd</sup> Objector is not the executor of the deceased' Will, his acts of dealing with the shares amounts to intermeddling.
18. The Petitioner also relied on the case of *in the matter of the Estate of M'Itunga M'Ibitu* [2016] eKLR to submit that the 3<sup>rd</sup> Objector violated the status quo order by the Court and the transfer of shares should be invalidated.
19. It was further argued that the allegations of forgery and invalidity of the Will are aspects subject to the Objector proceedings.



20. Pertaining the second Application, the Petitioner submitted that the Grant Ad Litem was obtained fraudulently and should be revoked by the Court's own motion and relied on *Matheka & Another vs Matheka* [2005] 2 KLR as was cited in *the matter of the Estate of Johana Kariuki Kamau (Deceased)* [2017] eKLR. It was further submitted that not all beneficiaries from the 1<sup>st</sup> Objector's estate was involved in the process and that there was also no consent obtained and therefore undeserving of the prayers sought.

### **Analysis and Determination**

21. I have carefully considered the two applications, the affidavits tendered by the parties herein and before dwelling on the issues and the merits of the applications or otherwise, I believe it best to address some other issues that have been raised by the disputing parties in their affidavits
22. The 3<sup>rd</sup> Objector raised a couple of issues in his Replying Affidavit sworn on 31<sup>st</sup> January, 2025. Among them was the issue that of contestation of the Will as depicted in paragraphs 11, 12, 13 and 15 and further annexed the Affidavit of Rajan Bhasi sworn on 9<sup>th</sup> September.
23. The 3<sup>rd</sup> Objector also brought out in paragraphs 7, 10 and 14 the issue of recusal of Mucheru Law on grounds of conflict of interests due to the fact the firm drafted and witnessed yet it is on record for the Petitioner and that the firm is a liability point to be extracted from the Will in terms of payment of fees.
24. These issues as raised are premature and cannot be canvassed at this instant. The validity or lack thereof of the Will is still pending before this Court and the Objection by the Objector's is yet to be determined. On recusal, the aggrieved party ought to make a formal application presenting reasons why they feel the advocate should recuse themselves.
25. Therefore, first issue for determination by the Court is whether this Court has jurisdiction to determine an issue over the assets of the deceased herein held in a foreign country and in particular shares held in R Bhogals Limited UK, Company Number, 01243244?
26. The 3<sup>rd</sup> Objector argued that the subject company is a company listed in the United Kingdom and therefore subject to the laws of the United Kingdom.
27. Section 47 of the [Law of Succession Act](#) (the Act) gives this Court the power to make such orders as it deems fit limited to its jurisdiction while considering the jurisdiction of other Courts. The main purpose of a Succession Court is preservation and distribution of the estate of a deceased.
28. Section 4 (1) of the [Act](#) provides that: -
1. Except as otherwise expressly provided in this Act or by any other written law
    - a. succession to immovable property in Kenya of a deceased person shall be regulated by the law of Kenya, whatever the domicile of that person at the time of his death;
    - b. succession to the movable property of a deceased person shall be regulated by the law of the country of the domicile of that person at the time of his death.
29. The applicable law is Section 4 1(b) of the [Act](#). The Annual Returns annexed thereto from the Companies House in the United Kingdom indicate the nationality of the deceased as Kenyan. The death certificate dated 22<sup>nd</sup> September, 2022 indicate the deceased died on 29<sup>th</sup> August, 2022 in Kenya. There is no contestation that the deceased was domiciled in Kenya.
30. Shares are considered moveable property. Succession of movable property, such as in this case, is governed by the law of the country of domicile of a deceased person. For the avoidance of doubt



although they are held in a company registered in the United Kingdom succession of those shares is governed by the Laws of Kenya.

31. The second issue for determination is whether the 3<sup>rd</sup> Objector is guilty of intermeddling and if so what are appropriate orders? The transfer of shares was done on 29<sup>th</sup> February 2024 by the 3<sup>rd</sup> Objector after the death of the deceased.
32. The shares at the time of death were registered in the name of the deceased herein. Therefore, upon the death of a deceased, no transaction ought to have been done prior to confirmation of Grant. Anything done outside confirmation of grant invalidates the transaction.
33. Looking at the 3<sup>rd</sup> Objector's pleadings there is no evidence to link him to the estate of the deceased as beneficiary or how he is entitled to the shares of the deceased and further his interest in the shares has also not been explained. If indeed the deceased had no legal ownership and was holding the shares in trust evidence of the same should have been availed. The allegation that the deceased was holding the shares in trust has no legal backing.
34. The question that the 3<sup>rd</sup> Objector has failed to answer is how 1,200 shares in R Bhogals Limited UK belonging to the deceased were transferred on 29<sup>th</sup> February 2024 after the death of the deceased without a Confirmed Grant or partial confirmation or even a Limited Grant. Even if the Transfer of Shares is governed by the Company Laws of the United Kingdom transfer of the shares of a deceased person is governed by the Succession Laws and not the Company Laws.
35. For the transfer of shares to be done without a confirmed grant in the United Kingdom, the estate value has to be very small and done as provided in the [\*Administration of Estates \(Small Payments\) Act 1965\*](#). A grant is generally required to make a formal transfer and to prove authority of the personal representative, the shares are then transmitted to the personal representative. The shares are transferred only by operation of law and not through the formal transfer. The 3<sup>rd</sup> Objector is not a personal representative of the deceased's estate therefore lacked capacity to transfer the shares.
36. Coming back home, Section 45 of the [\*Act\*](#) makes it an offence for any person to intermeddle with the estate of the deceased and provides as follows:
  1. Except so far as expressly authorized by this Act, or by any other written law, or by a grant of representation under this Act, no person shall, for any purpose, take possession or dispose of, or otherwise intermeddle with, any free property of a deceased person.
  2. Any person who contravenes the provisions of this section shall-
    - a. be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding one year or to both such fine and imprisonment; and
    - b. be answerable to the rightful executor or administrator, to the extent of the assets with which he has intermeddled after deducting any payments made in the due course of administration.
37. According to Musyoka, J in the [\*matter of the estate of Veronica Njoki Wakagoto \(Deceased\)\*](#) [2013] KEHC 1930 ([KLR](#))

“The effect of this [section 45]...is that the property of a dead person cannot be lawfully dealt with by anybody unless such a person is authorised to do so by the Law. Such authority emanates from a grant of representation and any person who handles estate



property without authority is guilty of intermeddling. The law takes a very serious view of intermeddling and makes it a criminal offence.”

38. Given that the transfer of the 1,200 shares was done in contravention of the law, the transfer of Shares by the 3<sup>rd</sup> Objector from the deceased to himself is void for want of legal capacity and amounted to criminal activity. Such transaction cannot be upheld by this Court. As the the 3<sup>rd</sup> Objector is indeed guilty of intermeddling with the estate of the deceased herein, all transactions undertaken pursuant to the said transfer are equally void.
39. The third question for determination is whether the Notice of Motion dated 30<sup>th</sup> January, 2025 is merited?
40. The Court notes that other issues outside what is for determination by this Court have been raised by the Petitioner. For instance, the issue that the objection is lacking merit and ought to be dismissed is premature and cannot be canvassed at this stage.
41. Further, it is not for the Applicant to present evidence in support of the 1<sup>st</sup> Objector’s Objection at this point. The essence of an Ad Litem Grant is to confer legal authority to act in a legal matter limited to representing the deceased in a suit. The application seeks to substitute the deceased 1<sup>st</sup> Objector and represent the 1<sup>st</sup> Objector’s interests in this suit. As to the validity or otherwise of the 1<sup>st</sup> Objector’s interest in the Will or this suit, shall be subject to determination at the Objection proceedings.
42. The arguments raised in paragraphs 11 to 18 of the Replying Affidavit sworn on 12<sup>th</sup> February, 2025 are not for determination by the Court and if there is any contestation as to the legality of the Limited Grant, the beneficiaries of the estate of the 1<sup>st</sup> Objector are the ones to move Court appropriately in Nakuru Probate and Administration Cause No. E168 of 2024 to challenge the same with cogent and plausible reasons why the same should be revoked.
43. According to Rule 44 (1) of the *Probate and Administration Rules* provides: -

“Where any person interested in the estate of the deceased seeks pursuant to the provisions of section 76 of the Act to have a grant revoked or annulled he shall, save where the court otherwise directs, apply to the High Court for such relief by summons in Form 107 and, where the grant was issued through the High Court, such application shall be made through the registry to which and in the cause in which the grant was issued or, where the grant was issued by a resident magistrate, through the High Court registry situated nearest to that resident magistrate’s registry.”
44. The Petitioner is not a beneficiary of the estate of the 1<sup>st</sup> Objector and is equally not a holder of a grant of representation therefore he lacks locus to seek nullification of the Grant.
45. Of significance is that there is a Limited Grant issued to the Applicant and is limited to the 1<sup>st</sup> Objector’s interests in this cause and Milimani HCCCOM No. E224 of 2022 there is no legal justification why the prayers sought should not be allowed.
46. Having taken into account all the matters hereabove, I find merit in the 1<sup>st</sup> Application dated 17<sup>th</sup> January, 2025 on the following terms: -
  - a. An Order is hereby issued against Ranjit Singh Bhogal to forthwith transfer back the deceased 1,200 shares in R Bhogals Limited UK Company Number, 01243244 transferred on 29<sup>th</sup> February 2024.



- b. Mr Ranjit Singh Bhogal is hereby restrained whether by himself, his servants, agents, associates or otherwise, from further interfering/intermeddling in any manner with any of the assets of the deceased as listed in the deceased's Will dated 2<sup>nd</sup> September, 2019 and in particular the deceased's 1,200 shares in R Bhogals Limited UK Company Number, 01243244 pending confirmation of Grant.
  - c. Mr Ranjit Singh Bhogal is hereby restrained whether by himself, his servants, agents, associates or otherwise, from further interfering/intermeddling in any manner with any of the assets of the deceased as listed in the deceased's Will dated 2<sup>nd</sup> September, 2019 and in particular the deceased's 1,200 shares in R Bhogals Limited UK Company Number, 01243244 pending distribution of the estate to the beneficiaries.
  - d. There shall be no orders as to costs.
47. On the same note having taken into account all the matters hereabove, I find merit in the 2<sup>nd</sup> Application dated 30<sup>th</sup> January, 2025 on the following terms: -
- i. The 1<sup>st</sup> Objector Gurbakash Singh Bhogal (deceased) is hereby substituted by Paramjit Singh Bhogal being a personal representative of his estate.
  - ii. There shall be no order as to costs.

It is ordered

**DATED, SIGNED AND DELIVERED AT NAKURU ON THIS 22<sup>ND</sup> DAY OF MAY 2025**

**MOHOCHI S. M.**

**JUDGE**

