



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**In re Estate of Okello Ouchi Sindu (Deceased) (Succession Cause
63 of 2012) [2025] KEHC 8045 (KLR) (5 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8045 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT BUSIA

SUCCESSION CAUSE 63 OF 2012

WM MUSYOKA, J

JUNE 5, 2025

IN THE MATTER OF THE ESTATE OF OKELLO OUCHI SINDU (DECEASED)

RULING

1. The deceased herein died on 19th November 1984. He was said to have been survived by two sons and eight daughters, namely Sylvester Okumu Okelo, Lawrence Ochieng, Allan Barasa Ouchi, Roland Wabwire Ouchi Okello and Ben Okello Ouchi. He was expressed to have died possessed of Samia/Budongo/370. Representation was granted, intestate, to his son, Sylvester Okumu Okello, on 23rd May 2012, and a grant was duly issued. I shall refer to Sylvester Okumu Okello as the administrator.
2. The administrator proposed distribution of the estate vide a summons for confirmation of grant, dated 11th February 2013. He disclosed that the deceased owned Samia/Budongo/370, with 4 other individuals, being Wandera Mukhunja, Petro Oundo Ouchi, Onyango Okumu Ouchi and Marugu Ocheri, all who were deceased. He also disclosed that he had obtained representation to the estate of all the four, and he desired to distribute Samia/Budongo/370 to survivors of all the co-owners, who he listed in that application. He proposed distribution amongst the houses of Onyango Okello, Okello Ouchi, Peter Oundo Ouchi; Wandera Mukhunja and Munoku Ochiel, equally, and distribution amongst the survivors and beneficiaries, in each of those houses, equally.
3. That application was placed before Tuiyott J, on 2nd October 2014, and was allowed. The property was shared out amongst twenty one individuals in the manner proposed, based on the five houses. A certificate of confirmation of grant was duly issued, dated 6th October 2014.
4. It would appear that transmission of the estate did not happen in accordance with the confirmation orders of 2nd October 2014, for a Motion was filed herein by the administrator, on 24th May 2016, dated 5th May 2016, seeking cancellation of the certificate of confirmation of grant of 6th October 2014, and issuance of a fresh one in accord with proposals made in his application.
5. Before the court could act on that new proposal, the administrator filed a supplementary affidavit, on 5th June 2023, sworn on even date, revising the proposed distribution yet again.



6. On 11th June 2023 he filed a consent on confirmation of grant, dated 13th June 2023, executed by eighteen individuals out of the twenty-six listed. Eight did not sign it, being Ruphinus Ouchi, Faustin Barasa, Andrew Tendwa Mbaruku, Pius Pamfil Mwara, Anthony Ochieno Ouchi; Felix Okello Sindu, Salvatore Senzia and Anthony Ochieno Oundo.
7. When the application was placed before me, on 12th July 2023, I ordered that the eight individuals, who had not signed the consent, be summoned to attend court. On the date due for them to attend court, a mixture of the survivors attended, that is some who supported the proposals, and some who did not. Four individuals indicated that they did not support it. Mr. Shihemi, for the administrator, asked for time for consultations. The matter was adjourned several times, but no consensus was obtained, and, eventually, I ordered that it be listed for hearing.
8. The hearing happened on 6th February 2024. The administrator testified, together with Ann Alice Adikinyi; Ronald Ouchi Wabwire Okello, Anthony Ochieng Ouchi and Fredrick Sande. The other hearing session was conducted on 26th June 2024, when Andrew Tendwa Mbaruku and Felix Okello Sindu testified.
9. At the conclusion of the oral hearings, the parties were to file written submissions, and I note that the written submissions by the administrator, Andrew Tendwa Mbaruku, and Felix Okello Sindu are on record.
10. I have seen the certificate of official search on Samia/Budongo/370, dated 6th December 2011. It shows that the land measures 2.7 hectares. Its register was opened on 27th March 1980, when it was registered in the names of Okello Ouchi, Wandera Mukhunja, Onyango Ouchi, Peter Oundo and Munoku Ochieli. It indicates that each of the five proprietors hold 1/5 share.
11. From the pleadings, the administrator indicates that all the five proprietors are now dead. He further discloses that representation has been sought and obtained by him in separate succession causes, which make him administrator of all five estates. The instant case, Busia HCSC No. 63 of 2012 is for the estate of Okello Ouchi Sindu. Busia HCSC No. 64 of 2012 is for the estate of Wandera Mukhunja. Busia HCSC No. 65 of 2012 is in respect of the estate of Petro Oundo Ouchi. Busia HCSC No. 206 of 2012 is for the estate of Onyango Okumu Sindu. Busia HCSC No. 207 of 2012 is for the estate of Manugu Ocheri.
12. Yet, in the instant proceedings, the administrator is seeking to distribute all five estates in one cause. That is unacceptable. Each estate should be handled separately, and distributed likewise. What should have been sought to be done in this cause, being the first to be filed, was to have Samia/Budongo/370 divided into five equal units, to be distributed between the estate herein and the other four estates. After that the 1/5 share due to this estate should have been distributed in this cause to members of the family of the deceased person herein, Okello Ouchi Sindu, while the 4/5 shares due to the other 4 estates should have been distributed in Busia HCSCs Nos. 64, 65, 206 and 207 of 2012, to the survivors and beneficiaries in each of those houses.
13. Lumping all the five estates in one cause has created a logjam and the resultant stalemate.
14. Consequently, I shall review the confirmation orders that Tuiyott J made on 2nd October 2014, and order that Samia/Budongo/370 shall be shared equally between the late Okello Ouchi, the late Wandera Mukhuja, the late Onyango Ouchi, the late Munoku Ochieli and the late Peter Oundo. I shall further direct that the certificate of confirmation of grant, dated 6th October 2024, be amended to conform with the order above.



15. After each of the five estates get their respective certificates of confirmation of grant, out of this cause, each shall proceed to distribute the 1/5 share due to the respective estate to those entitled in that estate, so that the survivors of the late Okello Ouchi shall share their 1/5 share in Busia HCSC No. 63 of 2012; the survivors of the late Wandera Mukhunja in Busia HCSC No. 64 of 2012; those of the late Peter Oundo in Busia No. 65 of 2012; those of the late Onyango Ouchi, who I suppose is also known as Onyango Okwaro Sindu, in Busia HCSC No. 206 of 2012; and those of the late Munoku Ochieli in Busia HCSC No. 207 of 2012.
16. As this cause relates only to the estate of Okello Ouchi Sindu, it shall be mentioned, on 8th July 2025, strictly for members of or survivors from that house, separately from the other house, so as to chat a way forward on how the 1/5 share of the deceased herein, in Samia/Budongo/370, is to be distributed amongst them. The rest, being Busia HCSCs Nos. 64, 65, 206 and 207 of 2012 shall be mentioned on 28th July 2025, for further directions or orders. Let all the survivors and beneficiaries, in each of the five houses, attend court on the dates hereabove, meant for their respective houses. If any of the files relating to those causes has been closed, it shall be re-opened. If it has been transferred to the Chief Magistrate's court, it shall be recalled or transferred back to the High Court.
17. The Motion, dated 5th May 2016, is disposed of in terms of paragraphs 14 and 15 hereabove. Orders accordingly.

DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA ON THIS 5TH DAY OF JUNE 2025.

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.**

Messrs. Andrew Tendwa Mbaruku and Felix Okello Sindu, protestors, in person.

Advocates

Mr. Newton Shihemi, instructed by Maloba & Company, for the administrator.

