



REPUBLIC OF KENYA



**In re Estate of Christopher Okuro Aruji (Deceased) (Succession Cause
698 of 2014) [2025] KEHC 8009 (KLR) (3 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8009 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT HOMA BAY
SUCCESSION CAUSE 698 OF 2014**

OA SEWE, J

JUNE 3, 2025

IN THE MATTER OF THE ESTATE OF CHRISTOPHER OKURO ARUJI (DECEASED)

AND

IN THE MATTER OF AN APPLICATION FOR SUBSTITUTION OF AN ADMINISTRATOR

BETWEEN

PAULINE ADHIAMBO ODHIAMBO APPLICANT

AND

AGNES ACHIENG OGWENO 1ST PETITIONER

BENTER AJWANG OKURO 2ND PETITIONER

DAMARIS AUMA OJUDI 3RD PETITIONER

RULING

1. Before the Court for determination is the Summons for Revocation of Grant dated 24th October 2024. It was filed by Pauline Adhiambo Odhiambo pursuant to Section 47 and 76 of the [Law of Succession Act](#), Chapter 160 of the Laws of Kenya and Rule 73 of the [Probate and Administration Rules](#) for orders that:
 - (a) Spent
 - (b) The Grant of Letters of Administration Intestate granted and/or issued to Stella Atieno Okuro, June Adhiambo Ogola, Lornah Bol Okuro and Cliff Oriwo Okuro be revoked, annulled and/or rectified.
 - (c) Consequent to granting Prayer 2 herein above, the Court be pleased to issue a new Grant of Letters of Administration Intestate to Stella Atieno Okuro, June Adhiambo Ogolla, Cliff



Oriwo and Pauline Adhiambo Odhiambo for purposes of administration of the estate of Christopher Okuro Aruji (deceased).

- (d) Such further orders the Court may deem fit to grant.
2. The application was premised on the grounds that the estate of the deceased has been under the management of Stella Atieno Okuro, June Adhiambo Ogola, Lornah Bol Okuro and Cliff Oriwo Okuro but that Lornah Bol Okuro has since died; and therefore the management of the estate has come to a standstill. The applicant averred that, unless the orders sought are granted the estate shall remain unattended and exposed to wastage and/or alienation. Accordingly, the applicant averred that it is imperative that a new Grant of Letters of Administration Intestate be issued including her as a co-administrator in place of Lornah Bol Okuro (deceased).
 3. In the Supporting Affidavit sworn by the applicant on 24th October 2024, she averred, at paragraph 4 that the family of the said Lornah Bol Okuro (deceased) had presented her name for appointment as a co-administrator in place of Lornah Bol Okuro. She annexed as exhibits copies of the authority given to her to make the instant application and swear the Supporting Affidavit, Certificate of Death dated 6th June 2024 in respect of Lornah Bol Okuro, a copy of her own identity card as well as a copy of a letter by the area chief dated 26th August 2023 confirming the death of Lornah Bol Okuro. The applicant reiterated her stance that it is important for a new Grant of Letters of Administration Intestate to be issued to effect the proposed substitution.
 4. The application was unopposed and therefore it is not in dispute that one of the administrators, namely, Lornah Bol Okuro, is deceased. There is also credible evidence to show that the applicant, as the daughter of Lornah Bol Okuro, has been chosen by the family for appointment as an administrator in substitution of Lornah Bol Okuro. In the premises, the only issue for determination is whether the orders sought are available in the circumstances of this case.
 5. What is envisaged by Section 81 of the *Law of Succession Act* is that, in the event of the death of one or more of joint administrators, where there are several administrators, the surviving administrator or administrators have the mandate to continue with their duties to completion without the need to replace the deceased ones. That Section states as follows:

“Upon the death of one or more of several executors or administrators to whom a grant of representation has been made, all the powers and duties of the executor or administrators shall become vested in the survivors or survivor of them...”
 6. In this respect the position taken *Re Estate of Mwangi Mugwe alias Elieza Ngware (deceased)* [2003] eKLR, by Hon. Khamoni, J. which I subscribe to, is that:

“...the operative word is “substitution”. The *Law of Succession Act* has no provisions talking about substitution of a deceased single administrator...”
 7. In the same line of thought, Hon. Musyoka J. held as follows *in Re Estate of George Ragui Karanja (Deceased)* [2016] eKLR:

“The *Law of Succession Act* does not expressly provide for substitution of personal representatives who die in office, particularly in cases where the estate is left without one. The closest provision is section 81 of the Act, which provides for vesting of the powers and duties of personal representatives in the survivor or survivors of a dead personal representative...”



8. The rationale for the foregoing scenario was well explicated in the case of *Florence Okutu Nandwa & another v John Atemba Kojwa*, Kisumu Civil Appeal No 306 of 1998, in which the Court of Appeal made it clear that:

“A grant of representation is made in personam. It is specific to the person appointed. It is not transferable to another person. It cannot therefore be transferred from one person to another. The issue of substitution of an administrator with another person should not arise. Where the holder of a grant dies, the grant made to him becomes useless and inoperative, and the grant exists for the purpose only of being revoked. Such grant is revocable under section 76 of the *Law of Succession Act*. Upon its revocation, a fresh application for grant should be made in the usual way, following procedures laid down in the *Law of Succession Act* and the *Probate and Administration (Rules)*...”

9. In the light of the foregoing, it is manifest that the application dated 24th October 2024, though unopposed, is untenable. The surviving administrators have the authority to proceed with the administration of the estate to conclusion by dint of Section 81 of the *Law of Succession Act*. The application is hereby dismissed with an order that the costs thereof be costs in the cause.

It is so ordered.

DELIVERED, DATED AND SIGNED AT HOMA BAY THIS 3RD DAY OF JUNE 2025.

OLGA SEWE

JUDGE

