



REPUBLIC OF KENYA



**In re Estate of Raphael Charles Makokha (Deceased) (Succession Cause
106 of 2014) [2025] KEHC 10502 (KLR) (18 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10502 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
SUCCESSION CAUSE 106 OF 2014**

WM MUSYOKA, J

JULY 18, 2025

IN THE MATTER OF THE ESTATE OF RAPHAEL CHARLES MAKOKHA (DECEASED)

RULING

1. On 15th October 2024, I delivered a ruling herein, on a confirmation application, dated 24th March 2021. I distributed only 1 asset, a motor vehicle registration mark and number KAC 542W, as that was the only asset established to have been registered in the name of the deceased as of the time of his death and distribution. I declined to distribute the other assets, as there was inadequate proof that the deceased owned them as at the time he died and as they were not in his name as at the time of distribution. I postponed distribution of the rest of the assets, until after ownership of those assets was properly ascertained.
2. I also allowed the joinder of Hesbon Omondi, as interested party, as he was claiming an interest in one of the assets sought to be distributed, LR No. 2/2X1 Nairobi, Gitanga Road. It was one of the assets that I had found had not been properly ascertained as belonging to the deceased, and whose distribution I had directed to be postponed, pending ascertainment of ownership.
3. The said interested party, Hesbon Omondi, has come back to court with an application, dated 16th February 2025, seeking that he and the order preserving LR No. 2/2X1 Gitanga Road, be discharged, on the basis that the administratrices were yet to initiate proceedings, on the ownership of that property, at the appropriate court, to challenge his registration as owner.
4. There is a response to that application, vide the affidavit of Pauline Mary Makokha, of 7th April 2025. She avers that she had sued the interested party at the right court, the Environment and Land Court at Nairobi, in ELC No. E169 of 2025. She has attached a copy of the plaint in that suit.
5. I postponed confirmation of LR No. 2/2X1 Gitanga Road, to enable the administratrices sort out the issue of its ownership, in whichever way, even if it included litigation. I see that Pauline Mary Makokha has taken the initiative, to sue regarding that property. The determination of that matter will resolve the issue of ownership of the property. That being the case, no precipitate action should be taken in this matter, in terms of discharging the interested party and the property, before that suit is heard and determined.



6. Consequently, I find that there is no merit in the application, dated 16th February 2025. I hereby dismiss it, but with no orders as to costs. The matter shall be mentioned on 10th December 2025, for updates on progress in the suit, in Milimani ELC No. E169 of 2025. Orders accordingly.

DELIVERED, DATED AND SIGNED, IN OPEN COURT, AT BUSIA, ON THIS 18TH DAY OF JULY 2025.

W M MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant

Advocates

Mr. Agutu, instructed by Agutu & Company, Advocates for Hesbon Omondi.

Mrs. Oduor, instructed by Ochieng Onyango & Kibet, Advocates for Pauline Mary Makokha.

Mr. Fwaya, instructed by Fwaya Masakhwe Were & Company, Advocates for Zilpa Chepkemoi Bett.

