



**In re Estate of the Late Peter Kibisu Indimu (Deceased) (Succession Cause E25 of 2021) [2025] KEHC 10209 (KLR) (16 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10209 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
SUCCESSION CAUSE E25 OF 2021  
RN NYAKUNDI, J  
JULY 16, 2025**

**BETWEEN**

**FLORENCE KADALI KIBISU ..... PETITIONER**

**AND**

**BRIAN INDIMU KIBISU ..... OBJECTOR**

**RULING**

1. What is pending before me for determination are summons dated 2<sup>nd</sup> April 2025 in which the Applicant is seeking the following orders:
  - a. Spent
  - b. That the executive Officer of this Honourable Court do execute and/or sign all requisite documents to facilitate formal transfer by way of transfer by transmission in respect to the estate to the estate of the deceased pursuant to the consent order of the Honourable issued on 11<sup>th</sup> November 2024 and the District Land Registrar, Uasin Gishu County do ensure that the transfer is effected in respect to parcel No. Uasin Gishu/Illula/716 in favour of Brian Indimu Kibisu.
  - c. That the executive Officer of this Honourable Court do execute and/or sign all requisite documents to facilitate formal transfer of that parcel of land known as Pioneer/Ngeria Block 1 (EATEC)/1065 registered under Florence Kadali Kisibu pursuant to the consent order of the Honourable Court issued on 11<sup>th</sup> November, 2024 and the District Land Registrar, Uasin Gishu County do ensure that the transfer is effected in favour of Brian Indimu Kibisu.
  - d. That the executive Officer of this Honourable Court do execute and/or sign all requisite documents to facilitate formal subdivision by the County Surveyor Uasin Gishu to exercise 0.5 acres over that parcel of land known as Pioneer/Ngeria Block 1 (EATEC)/9360 pursuant to the consent of the Honourable Court issued on 11<sup>th</sup> November, 2024 and the District Land



Registrar, Uasin Gishu County do ensure that the transfer of 0.5 acres is effected in favour of Brian Indimu Kibisu.

- e. That the OCS Kiambaa Police Station to provide security to the County Surveyor during the exercise of subdivision over that parcel of land known as Pioneer/Ngeria Block 1 (EATEC)/9360.
  - f. Costs be provided for
2. The Application is based on the following grounds:
- a. That vide consent order of this Honourable Court dated 11<sup>th</sup> November, 2024 the estate of the deceased was distributed.
  - b. That the Administrator one, Florence Kadali Kisibu is reluctant to execute transfer forms by way of transfer by submission.
  - c. That court orders are not made in vain.
3. The Application is supported by the annexed affidavit dated 2<sup>nd</sup> April 2025 sworn by Brian Indimu Kibisu, the Applicant herein who avers as follows;
- a. That the certificate of confirmation of Grant was issued by this Honourable Court on 14<sup>th</sup> November 2024 pursuant to the consent order dated 11<sup>th</sup> November 2024.
  - b. That the administrator, Florence Kadali Kisibu has absolutely and totally refused to execute transfer forms by way of transfer by transmission and supply KRA Pin, Id copy, passport sized photographs to enable the transfer be done.
  - c. That it is in the interest of justice that the Executive Officer of this Honourable Court do execute all the necessary forms to facilitate formal transfer to enable me enjoy fruits of the distribution of the deceased's estate.

### **Analysis and Determination**

4. I have read and considered the summons herein and the Affidavit in support of the Summons and there is one issue manifest for determination by this Honourable Court: Whether orders for the Executive officer of this Honourable Court to execute the transfer forms should issue.

### **Whether orders for the Executive officer of this Honourable Court to execute the transfer forms should issue.**

5. It is at once obvious that after issuance of the certificate of confirmation of grant the nature and scope of distribution remains entirely within the province of administrators. The court recognizes the gravitas of the matter on transmission of the estate and pronounce itself that the power by administrators has to be exercised within a period of 6 months. This provision is wide enough to apply in the event the jurisdiction of the court ought to be invoked. It may be well be found that in the area under coverage requires the services of a surveyor that indeed is work cut out for the administrators. Section 83 of the [\*Law of Succession Act\*](#) lays out the duties of a Personal Representative as follows;
6. Personal Representatives shall have the following duties;
- a. To provide and pay, out of the estate of the deceased, the expenses of a reasonable funeral for him;



- b. To get in all free property of the deceased, including debts owing to him and moneys payable to his personal representatives by reason of his death;
  - c. To pay, out of the estate of the deceased, all expenses of obtaining their grant of representation, and all other reasonable expenses of administration (including estate duty, if any);
  - d. To ascertain and pay, out of the estate of the deceased, all his debts;
  - e. Within six months from the date of the grant, to produce to the court a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;
  - f. Subject to section 55, to distribute or to retain on trust (as the case may require) all assets remaining after payment of expenses and debts as provided by the preceding paragraphs of this section and the income therefrom, according to the respective beneficial interests therein under the will or on intestacy, as the case may be;
  - g. Within six months from the date of confirmation of the grant, or such longer period as the court may allow, to complete the administration of the estate in respect of all matters other than continuing trusts, and to produce to the court a full and accurate account of the completed administration.
  - h. To produce to the court, if required by the court, either of its own motion or on the application of any interested party in the estate, a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;
  - i. To complete the administration of the estate in respect of all matters other than continuing trusts and if required by the court, either of its own motion or on the application of any interested party in the estate, to produce to the court a full and accurate account of the completed administration.
7. The court therefore has to step in to ensure that the administration of the estate is completed. The powers to do so are donated by section 47 of the *Law of Succession Act* and Rule 73 of the Probate and Administration Rules. Section 47 of the *Law of Succession Act* provides; The High Court shall have jurisdiction to entertain any application and determine any dispute under this Act and to pronounce such decrees and make such orders therein as may be expedient. Rule 73 of the Probate and Administration Rules provides; Nothing in these Rules shall limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.
8. In the case of *Re Estate of the late Kubuta Kamara Nguuro Alias Pharis Njegegu (Deceased)* [2021] eKLR, the court expressed itself as follows;

“However, this court being a succession court has ample powers donated to it by Section 47 of the *Law of Succession Act* and Rule 73 of the Probate and Administration Rules to resort to, in order to meet the ends of justice. The task of administering the estate is still on the shoulders of the respondent (administrator). As I have already noted, despite the grant having been confirmed in the year 2007 and even after the subsequent amendment by Muchemi J (which included the Wang’uru Plot in the certificate), the respondent has nonetheless failed to administer the estate. I believe that court orders ought not to be issued in vain but must be complied with. Further, the office of administrator of estate of a deceased



person is an office which is built on the foundation of trust and goodwill. Where such is seen to be lacking, then the court ought to invoke its powers to ensure that justice is done to the beneficiaries more so where the administrator puts the beneficiaries in an unenviable position.

26. In the instant case, the administrator having failed to distribute the estate and without any valid reason, the Deputy Registrar of this court ought to be ordered to sign all the relevant documents to effect the transfer of the properties to the beneficiaries. As such I allow prayer 5 of the application.....”
9. In my considered view, the administrators appointed by the court under Section 66 of the Law of Succession Act hold that office to the extent of complying with the oath in the petition in form P&A 80 which decrees as follows: I will faithfully administer according to law all the estate which by law devolves upon and vests in his personal representative of the deceased and I will render a just and true account of such estate whenever required by law so to do and I will when required by this court deliver up thereto the said grant. However, the jurisprudence of the court more specifically on administrators is not particularly encouraging for some of them have been holding other beneficiaries, heirs and dependants duly entitled to an inheritance under Section 29 of the Act at ransom. The long perpetuation of an unlawful scheme some of the administrators to abdicate their duties to distribute the estate in conformity with certificate of confirmation of grant is admittedly unfortunate. The proper implication in this context is for the court to exercise its inherent jurisdiction under Rule 73 (1) of the Probate and Administrative Rules to bring formal order by revoking appointments of administrators who have circumvented the law on substantive justice. This will be designed to protect or advance the rights of category of persons disadvantaged by unfair discrimination of the administrator duly appointed by the court to oversee overall administration of the intestate estate.
10. In the context of this application it is clear that the estate risks being undistributed for the very reason of abstinence to act and sign the instruments on distribution by one of the administrators who has shown such signs of non-cooperation, I concur with the decision by Odunga J as he then was in *William Nzioka Mutisya (Deceased) (2018) eKLR* “It is however my view that the administrators may be removed from their duties where, due to wrangles and disagreements amongst themselves, it is impossible for them to proceed diligently with the administration of the estate ...”
11. In my view if the Court finds that the administrators are unable to properly administer the estate due to their disagreements, nothing steps the Court from removing them from the administration and appointing new administrators notwithstanding the issue of priority or preference. This must be so because section 66 of the Law of Succession Act provides that: “When a deceased has died intestate, the court shall, save as otherwise expressly provided, have a final discretion as to the person or persons to whom a grant of letters of administration shall, in the best interests of all concerned, be made.”
12. In this instant case I find that the administrator, Florence Kadali Kisibu, the Petitioner/Respondent has been unable to properly administer the estate properly as she has absolutely and totally refused to execute transfer forms by way of transfer by transmission and supply KRA Pin, Id copy, passport sized photographs to enable the transfer be done.
13. As far as this application is concerned and to dispel any doubt in this regard the following orders shall abide, I find that this is an appropriate case to exercise the powers conferred upon this court by section 47 of the Law of Succession Act and Rule 73 of the Probate and Administration Rules. I hereby order that;



- a. That the administrator to this estate are steering at Section 76 of the Succession Act which provides for grounds under which the appointment of administrators can jointly or severally be revoked for reason of not acting with due diligence to proceed and administer the estate of the deceased, In the same breadth the revocation of the administrators can be carried out by this court for reason that has persona representative have failed to produce to the court within the time prescribed under Section 83 (g) the probate account of administration on material particulars of the estate within six months after issuance of certificate of confirmation of grant.
- b. That by implication an order be and is hereby made that Brian Indimu Kibisu do execute all the appropriate and necessary documents to effect sub divisions, transfer and transmission of the properties to the estate of the beneficiaries.
- c. That by implication an order be and is hereby made that Brian Indimu Kibisu being one of the administrators or personal representatives duly appointed by this court is hereby commanded to comply with the law and the various orders issued by this court at various levels and the administration of the estate to do so within ninety (90) days from today's date by first convening an all-inclusive implementation status conference of all the beneficiaries with the legal counsels seized of this matter to design a strategic plan to meet the set timelines.
- d. That the Deputy Registrar of the High Court in exercise of her ministerial powers be part of the convener of the initial conference to ensure compliance with clause (b & c) of this order.
- e. That in default of compliance by the administrator/personal representative to the orders of transmitting and conveyance of the entire estate to the defined beneficiaries and located shares a revocation order of the administrator so appointed shall take effect and in his place the Public Trustee under the supervisory jurisdiction of the Deputy Registrar of the High Court shall commence, to lay out a plan of execution to transmit and implement the decree of this court on the model of distribution of this estate.
- f. That the administrator herein or as the case may be the ordained Public trustee and Deputy Registrar shall draw their inspiration from the provisions of Article 159 (2) ( C) of the *constitution* of closing in on any administrative gaps which may arise during implementation of the designed plan on distribution of the estate of the beneficiaries. The purpose of this is to assist the administrators and the Public Trustee/Deputy Registrar at an opportune time to effectively oversight and manage the distribution expeditiously and safeguards the rights of the beneficiaries.
- g. Each party shall bear its own costs

14. It so ordered.

**DELIVERED, DATED AND SIGNED AT ELDORET ON 16<sup>TH</sup> JULY 2025**

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**R. NYAKUNDI**  
**JUDGE**

