



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Juma Omwanda (Deceased) (Succession Cause
148 of 2011) [2025] KEHC 9837 (KLR) (4 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9837 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
SUCCESSION CAUSE 148 OF 2011**

WM MUSYOKA, J

JULY 4, 2025

IN THE MATTER OF THE ESTATE OF JUMA OMWANDA (DECEASED)

RULING

1. The summons for disposal is dated 15th July 2024. It seeks revocation of the certificate of confirmation of grant dated 14th June 2012. It is premised on section 76 of the *Law of Succession Act*, Cap 160, Laws of Kenya.
2. The discretion and jurisdiction vested in the court by section 76 is for revocation of grants of representation. Section 53 specifies the types of grants that may be made by the court, of probate of a will, of letters of administration with will be annexed, and of letters of administration intestate. Whereas the section, section 3 of the *Law of Succession Act*, does not define “grant,” Rule 2 of the Probate and Administration Rules does, and the definition follows what section 53 of the *Law of Succession Act* provides.
3. The grants that are available for revocation are those defined in section 53 of the *Law of Succession Act* and Rule 2 of the Probate and Administration Rules.
4. The application herein does not invite me to revoke a grant of representation, but a certificate of confirmation of grant.
5. A certificate of confirmation of grant is not a grant of representation. It cannot, therefore, be the court paper that the court is empowered by section 76 of the *Law of Succession Act* to revoke.
6. A certificate of confirmation of grant is a court paper, which extracts the orders that the court makes, under Section 71 of the *Law of Succession Act*, after hearing and allowing a summons for confirmation of grant. It is a certificate, mined from the orders of confirmation of the grant, specifying the terms of the distribution of the estate approved by the court. It is, by no means, not the grant contemplated in section 76. It is not available for revocation in the manner envisaged by section 76.
7. The only relationship between section 76 and confirmation of grants is to the extent set out in section 76 (d) (i). A grant is liable for revocation where the administrator fails to apply for confirmation of



their grant within one year from the date of the making of the grant, or such other longer period as the court may allow. It is only in that limited extent that the issue of confirmation can arise with respect to revocation of grant.

8. It should be clear that the application dated 15th July 2024 is not properly founded. I can only revoke a grant under section 76 of the *Law of Succession Act*, not a certificate of confirmation of grant.
9. As indicated above, the certificate of confirmation of grant is an extract from the confirmation orders. Cancellation or revocation of the certificate would serve no purpose, for it would leave the confirmation orders, from which it is founded, intact. A person, aggrieved about the confirmation orders, should go after the said orders, not the certificate extracted from them. The way to go about it is not by way of summons for revocation, under section 76, but either review or setting orders aside of the confirmation orders.
10. I am unable to grant the orders sought in the application dated 15th July 2024. I hereby dismiss the same. Orders accordingly.

DELIVERED, DATED AND SIGNED IN OPEN COURT, AT BUSIA, ON THIS 4TH DAY OF JULY 2025.

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Oduol, instructed by Oduol Achar & Company, Advocates for the Applicant.

