



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Jephthah Adhaya Odera (Deceased) (Probate & Administration  
E006 of 2024) [2025] KEHC 9461 (KLR) (3 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9461 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
PROBATE & ADMINISTRATION E006 OF 2024**

**DK KEMEL, J**

**JULY 3, 2025**

**IN THE MATTER OF THE ESTATE OF JEPHTHAH ADHAYA ODERA ALIAS JEPHTHAN  
ODERAH ADHAYA ALIAS JEPHIPHA ODERAH ADHAYA ALIAS JEPHITHAH ODERA  
AHDAYA ALIAS JEPHTHAH O. ADHAYA ALIAS HEPHTHAH O. ADHAYA (DECEASED)**

**BETWEEN**

**IMMACULATE JACQUELINE SVENSON ..... OBJECTOR**

**AND**

**CHAGALA EBBY MMBONE ..... ADMINISTRATOR**

**RULING**

1. The Objector herein filed the present summons for revocation of grant dated 7/1/2025 seeking the following prayers;
  - i. That the grant of letters of administration intestate and the legal process leading to the issuance of the grant by the Chief Magistrate's court dated 28/4/2023 be declared null and void ab initio.
  - ii. That this court be pleased to appoint Immaculate Jacquiline Svenson the Objector herein as a co-administrator of the estate alongside Chagala Ebby Mmbone.
  - iii. That the banks and Safaricom listed in the affidavit in support of summons for confirmation as numbers 11-14 (both numbers inclusive) and as k, l, m and n in the Petition do provide the respective statement in respect of those accounts/ mobile number (Mpesa) from 14/7/2021 to date and hand them over to the administrators of the estate.
  - iv. That the District Sub-County Land Registrar in charge of Ngong Lands Registry be ordered to provide the following documents in respect to LR No. Ngong/Ngong/17290.
    - a. Certified copy of the green card.





7. I have given due consideration to the application and the rival submissions. I find the issue for determination is whether the application has merit.
8. It is noted that the Objector's main grievances in this matter relates to revocation of grant, ownership of LR No. Ngong/Ngong/17290 and her quest to be made a co-administrator in the estate of the deceased. I will address these issues sequentially.
9. As regards the issue of revocation of grant, the same is provided for under section 76 of the *Law of Succession Act* as follows:

“A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by an interested party or of its own motion –

  - a. That the proceedings to obtain the grant were defective in substance;
  - b. That the grant was obtained fraudulently by the making of a false statement or by concealment from the court of something material to the case;
  - c. That the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;
  - d. That the person to whom the grant was made has failed after due notice and without reasonable cause either –
    - i. To apply for confirmation of grant within one year from the date thereof, or such longer period as the court has ordered or allowed;
    - ii. To proceed diligently with the administration of the estate; or
    - iii. To produce to the court, within the time prescribed; any such inventory or account of administration as is required by the provisions of paragraph (e) and (g) of Section 83 or has produced any such inventory or account which is false in any material particulars; or
  - e. That the grant has become useless and inoperative through subsequent circumstances.
10. It is noted that the objector has made a raft of accusations against the administrator who happens to be her step mother such as failing to obtain her consent for the making of a grant and in the distribution of the estate. She has further accused her of failing to include parcel LR No. Ngong/Ngong/17290 in the initial list of assets and then bringing it up in the list of distribution. The Objector also faults the administrator for undervaluing the assets of the estate forcing her to engage a valuer leading to the increase in the value of the assets. I have perused the record and note that the Objector's name has been listed as one of the beneficiaries in the chief's introductory letter as well as in forms P&A 5 and hence the Objector's allegation that she has been left out are false. Again, the issue of the value of assets has since been resolved as the properties have been valued and the matter transferred to this court for determination. It is common ground that in the initial stages of filing for letters of grant, Applicants are at liberty to state the exact value of the assets or estimated values and that the valuation can be addressed during the confirmation of grant. I find the failure by the administrator to state the exact value at the initial stages is not a ground to justify revocation as the matter is now a non-issue and not in contention. The administrator has averred that the Objector was consulted over the matter



but that she declined to co-operate by signing the consent to making of a grant and distribution of the estate. I have no doubt that the Objector has been in the know about the filing of this succession cause but declined to join hands with the administrator who is her step mother and that their relationship appears frosty. I am satisfied that the Objector has not met the threshold for revocation of grant. That prayer therefore must fail.

11. As regards the Objector's claim over LR No. Ngong/Ngong/17290, she has contended that the said parcel belonged to her late mother and that the same was later transferred in the name of the deceased herein two years after his death and now questions the legitimacy of the alleged transfer and further contends that the said property should not be part of the estate. Even though the Objector has sought for an order to issue directing the relevant Land Registrar to avail the documentation over the alleged transfer, I find that the same should be raised appropriately during the hearing of the summons for confirmation of grant. The Objector should proceed and file a protest to the summons for confirmation of grant wherein she will be at liberty to present her rival schedule of distribution and seek to have the parcel No. Ngong/Ngong/17290 isolated from distribution. It is at that juncture that she can avail the requisite evidence whether or not the said property belongs to her late mother or the deceased herein. To that extent therefore prayer No. 4 must fail.
12. As regards the Objector's quest to be made a Co-administrator, it is noted that her relationship with the current administrator is quite frosty and hence the two might not work seamlessly in the administration of the estate. It is instructive that the Objector's grouse is only about the ownership and distribution of parcel No. Ngong/Ngong/17290 and which issue can be easily tackled by the Objector by filing the appropriate protest to the summons for confirmation of grant or if need be, it can be raised in the Environment and Land Court. It is instructive that the matter has now reached summons for confirmation of grant stage and hence it is prudent to let the matter proceed as it is instead of sending the matter back to the drawing board which will set the parties back in point of time. In any case, the issue at hand is about distribution of the estate and not administration thereof. I find the Objector's prayer No. 2 lacks merit and is dismissed.
13. As regards the Objector's prayer for bank accounts and Mpesa details to be availed, I find that the same should be handled during the hearing of the summons for confirmation of grant. Hence, the request is rather premature at this stage. Indeed, the administrator is under obligation to list all the assets of the deceased which are available for distribution vide the schedule of distribution. That being the position, I find prayer No. 3 lacks merit and is dismissed.
14. In view of the foregoing observations, I issue the following orders:
  - i. The Objector's application dated 7/1/2025 is dismissed with no orders as to costs.
  - ii. The Objector is hereby granted fourteen (14) days to file and serve a protest, if any, to the proposed distribution of the estate.
  - iii. The administrator to file and serve response, if any, within ten (10) days of service.
  - iv. The matter shall be mentioned on 30/7/2025 for directions and further orders.

**DATED AND DELIVERED AT SIAYA THIS 3<sup>RD</sup> DAY OF JULY 2025.**

**D. KEMEI**

**JUDGE**

In the presence of

Siagi.....for Objector



Ojwang Agina.....for Administrator

Okumu.....Court Assistant

