



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Otieno Aggrey Ambala (Deceased) (Miscellaneous Succession Cause 68 of 1986) [2024] KEHC 101 (KLR) (16 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 101 (KLR)

**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT KISUMU**

**MISCELLANEOUS SUCCESSION CAUSE 68 OF 1986**

**RE ABURILI, J**

**JANUARY 16, 2024**

**IN THE MATTER OF THE ESTATE OF OTIENO AGGREY AMBALA (DECEASED)**

**RULING**

1. I observe that the Applicant Odhiambo Ambala is a bonafide beneficiary of the estate of the deceased Aggrey Otieno Ambala Senior. He is also the brother to the late Nyerere Ambala.
2. The latter was also a beneficiary of the estate of the late Aggrey Otieno Ambala Senior.
3. The estate was administered as per the consent of the parties adopted as the order of the court in this matter on 26<sup>th</sup> February 2009.
4. Litigation followed challenging the said consent and culminated into an appeal vide Kisumu Court of Appeal Civil Appeal No. 116 of 2016 which upheld the consent vide the judgment and order of 26<sup>th</sup> April 2018.
5. Regrettably, from the submissions by the Applicant herein, his brother Nyerere Ambala had already died in 2014 as per the annexed death certificate of death showing that he died on 14<sup>th</sup> November 2014.
6. The said Nyerere Ambala died before his shares in the estate of his late father were transferred to his names.
7. The Applicant herein by his application dated 22<sup>nd</sup> December 2023 seeks to have the grant issued to Walter Ambala and Alfred Jacob Ambala on 10<sup>th</sup> February 2006 and confirmed to be rectified so that the share of the estate property as assigned to the late Nyerere Ambala to be equally distributed between the Applicant and his surviving brother Ogolla Kodhek.
8. He however admits that they had other brothers who also died including one Oduor. What that means is that even assuming that this application is properly before this court at this stage which it is not, then the houses of their deceased siblings would equally have an interest and a right to claim for a share in the estate of the late Nyerere Ambala.



9. That aside, the Applicant has no grant of letters of administration intestate of the estate of the late Nyerere Ambala and therefore there is no basis or authority for him and his brother Ogolla Ambala to seek to have the share allocated to Nyerere Ambala who is now dead, to be redistributed to the two equally.
10. I find the application dated 22<sup>nd</sup> December 2023 not merited. I dismiss it with no orders as to costs.
11. This file is closed and can only be reopened vide a miscellaneous succession cause to conclude any emerging or pending issue.
12. This Ruling to be typed forthwith.
13. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 16<sup>TH</sup> DAY OF JANUARY, 2024**

**R. E. ABURILI**

**JUDGE**

