



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

In re Estate of Francis Masanganjila Andala (Deceased) (Succession Cause 105 of 2011) [2024] KEHC 2615 (KLR) (11 March 2024) (Ruling)

Neutral citation: [2024] KEHC 2615 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
SUCCESSION CAUSE 105 OF 2011
SC CHIRCHIR, J
MARCH 11, 2024**

IN THE MATTER OF THE ESTATE OF FRANCIS MASANGANJILA ANDALA (DECEASED)

RULING

1. The Application dated 30th November 2022 has been brought by one Donald Reckani Masanganjila, seeking for substitution of the administrator Anereya mukoya Masanganjila, who is now deceased with Donald Reckani Masanganjila; It further seeks for the deletion of the deceased's administration's name from the grant. It further seeks that upon Amendant of the grant, the said letters of Administration be confirmed.
2. It is premised on grounds that the said Administrator has since died. A burial permit is attached to the Affidavit; that the applicant, Donald Reckani Masanganjila has the consent of other beneficiaries to administer the estate. A consent signed by the beneficiaries is attached.
3. The application is not opposed.

Determination

4. I have considered the application, the supporting affidavit and the supplementary affidavit. The application is premised on section 71 of the *Law of Succession Act*, Order 1 Rule10(2), 24(3) of the Civil Procedure Rules and Rule 43 of the *Probate and Administration Rules*.
5. From the onset, let me state that the *Law of Succession Act* does not provide for substitution when a single administrator dies. When an Administrator dies, it is trite law that the Grant then becomes legible for revocation . The basis of revocation is that the grant becomes inoperational within the context of section 76 (e) of the *law of succession Act*
6. In this case there were two Administrators, like in this case, the surviving Administrator continues with Administration of the Estate, save where there is a continuing trust (Ref. Section 81 of the Act).
7. However, in the present case I take note of the fact that the deceased was polygamous .Thus notwithstanding the fact that there is no indication as to whether there was a continuing trust, it may



be necessary to appoint a representative of the deceased's Administration's "house" . This will give make the children of that " house" to have confidence that their interest would be taken care of.

8. On confirmation, the grant had already been confirmed. The prayer for confirmation is therefore misplaced. What is required is an amendment of the certificate of confirmation of Grant. To serve ends of justice and pursuant to the powers bestowed upon this court by Rule 73 of the Probate and Administration Rules, I will instead order for the amendment of the certificate too.
9. Consequently, bearing in mind the interest of both houses as aforesaid, I would order as follows
 - i. The grant of Letters of Administration issued on 21.5.2013 is hereby amended by striking off the name of Anereya Mukoya Mazanganjila and replacing it with Donald Reckani Masanganjila.
 - ii. The certificate of confirmation of grant dated 14.4.2023 is amended by removing the name of Anereya Mukoya Masanganjira and replacing it with that of Donald Reckani Masanganjira.
 - iii. Both the Amended Grant of letters of Administration and Amended certificate of confirmation of Grant to issue forthwith

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 11TH MARCH, 2024

S. CHIRCHIR

JUDGE

In the presence of:-

Godwin – Court Assistant.

