



**Omuono & another v Juma & another (Succession Cause
194 of 2008) [2024] KEHC 2624 (KLR) (12 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2624 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 194 OF 2008**

RE ABURILI, J

MARCH 12, 2024

**IN THE MATTER OF THE ESTATE OF THOMAS WACHESA
BOYI ALIAS THOMAS WACHEZA BOI (DECEASED)**

BETWEEN

ALFRED GORI OMUONO 1ST APPLICANT

NICANOR KASUKU WACHESA 2ND APPLICANT

AND

JOSHUA ERICK JUMA 1ST RESPONDENT

WILLIAM OLUOCH WACHESA 2ND RESPONDENT

RULING

1. On 4th August 2008, this court issued a grant to William Oluoch Wachesa to administer the estate of the late Thomas Wachesa Boyi.
2. There was no summons for confirmation of the said grant despite several notices issued by the court until ten (10) years later on 19th September 2018 is when an application was made to confirm the grant.
3. Still, that application was never prosecuted despite several notices issued to the administrator.
4. The file became dormant until the parties resurfaced on 26th September 2022 and the Deputy Registrar did direct them to appear before me on 14th November 2022 which they did.
5. On the latter date, this court implored the parties to distribute the property amicably and they appeared in court on 14th December 2022 when they stated that they had agreed to share the estate equally.
6. The court then heard all the beneficiaries on 19th December 2022 in the presence of all beneficiaries and confirmed the grant giving the administrators six (6) months to ensure the estate is fully distributed and true and accurate accounts filed into court as stipulated in Section 83 of the [Law of Succession Act](#).



7. The administrators are aged but not very old, from my observations. Two of the beneficiaries are in court alleging that the administrators are demolishing part of the estate rental houses for other beneficiaries and colluding with third parties to disinherit the beneficiaries. That they have also refused to have the property surveyed and the letter of the Assistant Chief, Nyalenda 'A' Sub-location dated 11th December 2023 confirms this.
8. The administrator is claiming that the 1st Applicant Alfred Gori has documents but does not say which documents and how those documents or lack of them has affected survey and distribution of the estate property as per the certificate of confirmation of the grant.
9. From my own observation, the administrators are not persons suitable or keen to have the estate herein distributed. They are not fit to administer the estate.
10. The grant as issued many years ago has never helped them and neither has the confirmation given them impetus to do that which the law mandates them to do, which is, to distribute the estate of the deceased. In other words, the grant as issued and confirmed is useless and inoperative.
11. The estate is not much yet the administrators are taking other beneficiaries round the circles. They have not stated that which they have done on their part and how the other beneficiaries have hindered their efforts to conclude the process.
12. For the above reasons, and for non-compliance with Section 83 of the *Law of Succession Act*, the grant as issued to the administrators herein and confirmed on 19th December 2022 is hereby annulled and revoked.
13. The estate being of a value less than Kshs.20,000,000, the family shall petition for a fresh grant before the Chief Magistrate's Court at Kisumu for a speedier process but the Administrators herein shall not be allowed to be administrators, having failed to administer the estate of the deceased in accordance with the law and or distributing the said estate as per the certificate of confirmation of grant issued on 19th December 2022.
14. This file is closed. Ruling to be typed.
15. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 12TH DAY OF MARCH, 2024

R. E. ABURILI

JUDGE

