



REPUBLIC OF KENYA



**In re Estate of Eliakim Manas Ongango (Deceased) (Succession Cause  
586 of 2008) [2024] KEHC 6753 (KLR) (5 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 6753 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
SUCCESSION CAUSE 586 OF 2008**

**RE ABURILI, J**

**JUNE 5, 2024**

**IN THE MATTER OF APPLICATION BY JONATHAN SIJENYI MANASE,  
GEORGE MANASSEH OLWERO, MARY ADHIAMBO OWITH AND  
FLORENCE REBECCA OLWERO – PETITIONERS/APPLICANTS**

**RULING**

1. I have considered the application dated 8<sup>th</sup> May 2024 which is made ex parte. The grant was issued on 16<sup>th</sup> October 2013 and confirmed on 29<sup>th</sup> July 2019, in favour of 4 administrators.
2. It is now deposed that the 1<sup>st</sup> Petitioner Jonathan Sijenyi Manase is deceased as per the death certificate annexed, issued on 30<sup>th</sup> June 2023.
3. He died aged 82 years old on 27<sup>th</sup> April 2023 due to stroke.
4. No doubt, the 1<sup>st</sup> Administrator was aged but the questions is, why did the administrators obtain a grant and sit on it after it was confirmed way back on 29<sup>th</sup> July 2019 nearly 5 years ago and six years after it was issued to them in 2013, without distributing the estate of the deceased as required by law and filing into court true and accurate accounts as stipulated in Section 83 of the [Law of Succession Act](#).
5. In my humble view, the grant as issued and confirmed has not made any difference to the estate of the deceased Eliakim Manas Ong'ang'o as it is not expected that the estate of the deceased Eliakim Manase Ongango would be pending distribution five years after confirmation of the said grant.
6. As the administrators went to slumber with the conformed grant, and for laches, I decline the invitation to grant the orders sought.
7. Consequently, as the grant which was confirmed on 29<sup>th</sup> July 2019 became inoperational and useless, since it was never used to distribute the estate of the deceased, and for reasons that there is no alternative mode of distribution of the estate filed, with the demise of one of the administrators and being a beneficiary, meaning that the parties will still return to court to seek for other orders to substitute beneficiaries since the confirmed grant cannot be used to distribute the estate especially land which is held in trust by two of the beneficiaries on behalf of all the other beneficiaries.



8. Accordingly, I invoke Section 76 (d) (i) of the *Law of Succession Act* and revoke the grant issued on 16<sup>th</sup> October 2013 and confirmed on 29<sup>th</sup> July 2019.
9. The living beneficiaries are directed to petition for a fresh grant before Siaya High Court, the geographical jurisdiction wherein the deceased was domiciled as per the letter from the Chief, Central Gem Location.
10. Ruling to be typed and order extracted.
11. This file is closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 5<sup>TH</sup> DAY OF JUNE, 2024**

**R. E. ABURILI**

**JUDGE**

