



In re Estate of Simon James Chege (Deceased) (Succession Cause 373 of 2008) [2024] KEHC 8159 (KLR) (9 July 2024) (Ruling)

Neutral citation: [2024] KEHC 8159 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE 373 OF 2008
SM MOHOCHI, J
JULY 9, 2024
IN THE MATTER OF THE ESTATE OF SIMON JAMES CHEGE (DECEASED)

IN THE MATTER OF
PETER NJOROGE CHEGE APPLICANT**

RULING

1. The deceased herein died intestate on 30th December, 2006 and left behind a widow and fourteen (14) children. Grant of representation was made to Jacinta Njeri Chege and Peter Njoroge Chege with Certificate of Confirmation of Grant issued on 8th December, 2010.
2. The Applicant moved Court vide Notice of Motion Application dated 20th February, 2024 brought under Sections 18, 1, 1B and 3A of the *Civil Procedure Act*, seeking that the Honourable Court be pleased to Order that the above file be transferred to Nyandarua High Court at Kalou for an application of verification of grant.
3. The Application is premised on the grounds on its face and on the supporting affidavit sworn by the Applicant. He avers that he is the 2nd Administrator and that the cause of action arose at Ol Kalou in Nyandarua County. That at the time of filing the succession cause, the Court at Ol Kalou did not exist then. That the grant was issued in this cause but transmission did not take place as one of the administrators passed away on 22nd August 2021. That the Court in Ol Kalou is now vested with jurisdiction and hence the filing of the instant application.
4. The Applicant in his submissions filed on 15th May, 2024 submitted that 1st Administrator their mother had been ill for a prolonged period and thus were not able to complete the transmission. That he was advised to make a request for transfer through an application.
5. The Applicant nevertheless argued that it was not his preference to transfer the file to Nyandarua High Court and strongly believed the same can be concluded before this Court. He argued that the



Nyandarua High Court has had challenges in admitting files that were previously filed in Nyahururu High Court and request that the matter be heard before this Court.

Analysis and Determination

6. While this is an Application to transfer this sixteen (16) year old succession to the new High Court Registry at Ol Kalau the Applicant did shift his position midstream urging that he is comfortable in his cause being concluded in this Court.
7. The Notice of Motion Application dated 20th February, 2024 is accordingly dismissed for want of merit.
8. This Court accordingly rules that the Probate and Administration shall be concluded here without the need to transfer this matter elsewhere.
9. The Court notes that, the Applicant is a Co-Administrator and since 8th of December 2010 when the Grant was confirmed it would appear no transmissions have been undertaken.
10. This Court equally notes the insinuation by the Applicant that the Transfer sought was to facilitate filing of a summons for rectification of grant.
11. In light of the Above and in exercise of its inherent jurisdiction, this Court directs the Administrators to file within the next thirty (30) days, an affidavit, indicating the status of transmission of the property commonly known as Nyandarua/Upper Gilgil/318 to respective beneficiaries.
12. The Applicant is at liberty to file within the next thirty (30) days, an Application for rectification of grant.

It is so Ordered.

DATED, SIGNED AND DELIVERED AT NAKURU ON THIS 9TH DAY OF JULY 2024.

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MOHOCHI S.M.

JUDGE

