



In re Estate of Romanus Opande Kisaka (Deceased) (Succession Cause 126 of 1993) [2024] KEHC 8230 (KLR) (8 July 2024) (Ruling)

Neutral citation: [2024] KEHC 8230 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 126 OF 1993**

MS SHARIFF, J

JULY 8, 2024

IN THE MATTER OF THE ESTATE OF ROMANUS OPANDE KISAKA

BETWEEN

LAWRENCE ODHIAMBO OPANDE 1ST APPLICANT

BON NGESO OPANDE 2ND APPLICANT

SYLVESTER OCHIENG OTIENO 3RD APPLICANT

AND

NICHOLAS OBUNDE OPANDE RESPONDENT

RULING

1. Whereas the administrator herein is said to have died on 12.7.2011, the Objectors/Applicants filed a summons for revocation of the grant on 1.2.2022 with the full knowledge of the fact of death of the Respondent.
2. On 18.1.2023 Counsel for the Objectors Ms. Nyabeki took directions for the hearing of the summons for revocation of grant by way of viva voce evidence on 15.4.2024 when the same could not proceed due to the absence of the court as the Judge was on an emergency leave.
3. The summons were then rescheduled to 8/7/2024. It is surprising that the Objectors who are well represented by advocates have been moving this court suo motto without reference to the fact that the Respondent cited in their application is deceased.
4. An apology by Counsel for the Objectors made 13 years delay is not satisfactory explanation as to why the administrator was not substituted in the first instance when the summons for revocation of grant was filed.



5. In light of the above I do find that the summons for revocation of grant is bad in law ab initio for having been filed against a deceased person wherefore I do hereby strike out the summons for revocation of grant dated 1.2.2022.
6. Given that the Objectors have caused the Respondent's widow one Linda Achieng Obunde to attend court today, having served here with a hearing notice, I do condemn them to pay her travelling expenses of Kshs.3,000 which sum shall be paid by their advocates on record personally.
7. This file is marked as closed.

DATED, SIGNED AND DELIVERED THIS 8TH DAY OF JULY, 2024.

M. S. SHARIFF

JUDGE

