



In re Estate of Patrick Laurent Atieno (Deceased) (Miscellaneous Succession Cause E075 of 2024) [2024] KEHC 11883 (KLR) (1 October 2024) (Ruling)

Neutral citation: [2024] KEHC 11883 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS SUCCESSION CAUSE E075 OF 2024
RE ABURILI, J
OCTOBER 1, 2024**

IN THE MATTER OF THE ESTATE OF PATRICK LAURENT ATIENO (DECEASED)

BETWEEN

ROBERT ANGAWA APPLICANT

AND

MAURICE OCHIENG ATIENO OBJECTOR

RULING

1. The applicant is Robert Angawa. Vide Chamber Summons dated 23rd September 2024, he seeks for reconstruction of the file in HC Succession Cause No. 96 of 2000 where he petitioned for grant of letters of administration of the estate of the late Patrick Laurent Atieno.
2. He wants to finally deal with the estate of the deceased. He claims that despite follow up in the archives, the original Succession Cause file cannot be traced and that the deceased's estate is yet to be distributed as the property which is land is still registered in the names of the deceased as per the annexed copy of Search Certificate.
3. From the documents annexed, are the Gazette Notice No. 3855 of 23rd June 2000, grant dated 26th July 2000 and Death Certificate dated 15th May 2000 showing the deceased died on 18th October 1998 and was a retired Clerk Municipality.
4. There is no evidence that the Petitioner sought for confirmation of the said grant.
5. Accordingly, it is clear that the grant in issue was used to collect Bank savings as listed in P&A 5 after which the rest of the estate remained unadministered.
6. That being the case, and pursuant to Section 76 of the *Law of Succession Act*, the grant became useless and inoperative.



7. Such a grant cannot be confirmed 24 years later as there is no reason why the Petitioner went to slumber and only woke up on 26th July 2024 to ask for the original file which could not be traced upon which he sought for opening of skeleton file.
8. To resuscitate such a matter is to create unnecessary backlog. I find that this is a suitable case for this court to invoke its inherent powers to revoke and annul the grant issued on 26th July 2000 and direct the Petitioner and other beneficiaries of the estate to petition afresh for a fresh grant.
9. Accordingly, I order that the grant issued on 26th July 2000 to Maurice Ochieng Atieno to administer the estate of Patrick Laurent Atieno – deceased is hereby revoked and the beneficiaries of the estate are directed to petition for a fresh grant.
10. This Ruling to be availed to the beneficiaries as it will be useful in the filing of the fresh petition.
11. This file is closed.
12. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 1ST DAY OF OCTOBER, 2024

R. E. ABURILI

JUDGE

