



**In re Estate of Raphael Odongo (Deceased) (Miscellaneous Succession Cause E063 of 2024) [2024] KEHC 11801 (KLR) (1 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 11801 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS SUCCESSION CAUSE E063 OF 2024  
RE ABURILI, J  
OCTOBER 1, 2024  
IN THE MATTER OF THE ESTATE OF RAPHAEL ODONGO (DECEASED)  
AND  
IN THE MATTER OF AN APPLICATION BY HERINA AYUGI ODONGO - APPLICANT**

**IN THE MATTER OF  
HERINA AYUGI ODONGO ..... APPLICANT**

*(Arising from Kisumu HC Succession No. 418 of 1998)*

**RULING**

1. The deceased Raphael Odongo died on 12<sup>th</sup> June 1996 at Coast General Hospital aged 48 years. He was a clerical officer at Kenya Ports Authority, Mombasa.
2. On 9<sup>th</sup> November 1998, the widow petitioned this court for grant of letters of administration intestate to administer his estate.
3. In the petition, she listed several beneficiaries who are herself and her sons and daughters. Only Death Benefits were listed as the assets available in the estate and the value was estimated to be over One Hundred Thousand.
4. The petition was gazetted on 24<sup>th</sup> December 1998 vide Notice No. 7225 in Succession Cause No. 418 of 1998.
5. The grant was issued on 25<sup>th</sup> January 1999 as there was no objection to making of the grant as issued.
6. On 30<sup>th</sup> September 1999, the Petitioner applied for confirmation of the said grant and vide Certificate of Confirmation of grant dated 14<sup>th</sup> December 1999, the grant was confirmed.



7. In the summons for confirmation of the grant as well as the certificate of confirmation of the grant, there is no beneficiary or heir listed and neither is any asset of the deceased identified or listed.
8. It is now over 25 years. The Petitioner is before this court seeking for rectification of the grant issued to her to include property No. Kisumu/Nyalunya/3090 which she claims was left out during confirmation of the grant.
9. I have considered the application which has made the original succession file No. 418 of 1998 to be retrieved from the Archives.
10. First, it that it is not accurate to say that the property named above was left out during confirmation of the grant. This is so because no such property was listed in P&A 5 as forming part of the estate of the deceased.
11. Second, is that the Petitioner for all those years was only interested in Death benefits of the deceased, as evidence by the listing of Death Benefits as the only asset of the estate.
12. Third, is that even in the application for confirmation of the grant and this application, the beneficiaries of the estate are not listed and their respective shares in the estate are not proposed.
13. Fifth, is that even the asset to be included has no beneficiary proposed as no schedule of distribution of the estate is filed.
14. Sixth, is that the grant as issued on 25<sup>th</sup> January 1999 and confirmed on 14<sup>th</sup> December 1999 lost its usefulness. It became inoperative. It also became useless. such a grant cannot and is incapable of being rectified.
15. It is amenable for annulment and revocation under Section 76(d) (i) of the *Law of Succession Act*.
16. Accordingly, I hereby annul and revoke the grant issued to Herina Ayugi Odongo on 25<sup>th</sup> January 1999 and confirmed on 14<sup>th</sup> December 1999 and order this file closed.
17. The Petitioner and her children to obtain this Ruling and use it to file a fresh petition before a court of competent jurisdiction, within the geographical jurisdiction of the estate of the deceased Raphael Odongo.
18. This file is closed. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 1<sup>ST</sup> DAY OF OCTOBER, 2024**

**R. E. ABURILI**

**JUDGE**

