



REPUBLIC OF KENYA



**In re Estate of Daniel Olocho Agwanda (Deceased) (Succession Cause
91 of 1986) [2023] KEHC 2277 (KLR) (23 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2277 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 91 OF 1986
RE ABURILI, J
MARCH 23, 2023**

IN THE MATTER OF

**KENNEDY ONYANGO OUMA 1ST APPLICANT
MORRICE OCHIENG OUMA 2ND APPLICANT
MOSES OTIENO OUMA 3RD APPLICANT**

RULING

1. On record is a notice of motion dated November 7, 2022 filed by Kennedy Onyango Ouma, Morrice Ochieng Ouma and Moses Otieno Ouma, seeking orders that they be substituted as Administrators of the estate of Daniel Olocho Agwanda, in the place of Agustino Ouma Olocho who is now the deceased administrator.
2. The Applicants also pray that upon such substitution of the administrator, this court be pleased to reissue grant of letters of administration to the four Applicants.
3. The application is supported by Kennedy Onyango Ouma on November 7, 2022 allegedly annexing death certificate for Agustino Ouma Olocho as KOO-1 who is said to have died on May 30, 2013. However, the said death certificate for Agustino Ouma Olocho was not annexed.
4. I observe that this is a 1986 Succession Cause and that the grant was issued on November 5, 1986. To date, no summons for confirmation of the grant has been filed. The last time the matter was before R. Kuloba J. was on October 19, 1994 when the matter was due for hearing of summons for revocation of the grant by George Okoth Olocho, on account of the administrator failing to apply for its confirmation.
5. The matter was stood over generally on account of the applicant having been involved in a road accident and was hospitalised. It now emerges ten (10) years later that, in fact, the administrator who never took any steps to have the grant confirmed died in 2013. No doubt, the grant issued on November 5, 1996



was inoperational for all that period as the estate of the deceased Daniel Olocho Agwanda has never been administered.

6. For the above reasons, although the Applicants herein now seek for substitution as administrators, they never annexed any death certificate of the administrator Agustino Ouma Olocho and they have also not provided this court with an explanation why no action was taken for ten (10) years after the alleged death of the administrator.
7. The Applicants have further not stated how they are related to the deceased administrator or deceased Daniel Olocho Agwanda, whose estate they seek to administer. I say so because the original petition for grant filed in court on August 14, 1986 names Agustino Ouma Olocho as the elder son of the deceased.
8. In addition, the list of persons who consented to Agustino Ouma Olocho petitioning on their behalf as per the signed consent on record does not include the applicants herein.
9. In other words, I find that the locus standi of the applicants herein is not disclosed. There is no affidavit showing where Jura Olocho, Agwanda Olocho, Juma Olocho, Samuel Okoth Olocho, Tom Oyuda Olocho, Jackton Odongo Olocho and Monica Ogelo Olocho are and how the applicants herein have emerged as proposed substitutes.
10. This court has not been made aware that the deceased Daniel Olocho Agwanda has no primary Beneficiaries as stipulated in Section 35 of the *Law of Succession Act*.
11. I find this application devoid of substance and lacking in material disclosure.
12. I dismiss the application and proceed to revoke the grant issued to Agustino Ouma Olocho on November 5, 1986 as the said grant has become inoperational, noting that no single asset of the deceased was named in the petition for grant, which in itself renders the grant fatally defective. Those persons who are interested in the estate of the deceased Daniel Olocho Agwanda should petition for a fresh grant.
13. The applicants to be notified of this ruling and order
14. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 23RD DAY OF MARCH, 2023

R. E. ABURILI

JUDGE

