



REPUBLIC OF KENYA



**In re Estate of Gabriel John Ohas (Deceased) (Succession Cause
602 of 2010) [2023] KEHC 1794 (KLR) (15 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 1794 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 602 OF 2010
RE ABURILI, J
MARCH 15, 2023**

RULING

1. The application dated October 3, 2022 by way of Chamber Summons seeks for review, setting aside and or revising of the Certificate of confirmation of grant issue on March 18, 2022.
2. The grounds upon which the application is predicated are inter alia, that the Petitioner had no knowledge of the existence of the extra asset of the deceased Gabriel John Ohas as at the material time until titles were issued pursuant to the directive of the President in 2022, after the Lands Registry, Siaya, contacted the Petitioner.
3. The application is supported by affidavit sworn by the Petitioner/Administratrix Margaret Akello Ohas wherein she deposes explaining the reasons for non-inclusion of the asset Siaya/Mulaha/1454 when she petitioned for grant in this cause. She has annexed the search certificate for the said asset and a consent on the proposed mode of distribution of the estate that includes the asset to be included.
4. There are only three (3) beneficiaries of the estate. The other two beneficiaries namely: Josephine Atieno Ohas and Corazon Akinyi Ohas have signed a consent and the extra asset is proposed to be shared equally which is the best mode of distribution of the estate, there being no objection.
5. Having considered the Chamber Summons, the grounds and Supporting Affidavit sworn by the Petitioner/Administrator, I am satisfied that the omission to include the asset Siaya/Mulaha/1454 in P & A No 5 as an asset of the estate of the deceased Gabriel John Ohas was not deliberate and that it is in the interest of justice that the orders sought are granted to enable the estate of the deceased be fully administered and distributed.
6. In the premises, I hereby allow the application dated October 3, 2022 and make the following orders.
 1. That the order made on March 18, 2011 confirming the grant of letters of administration intestate issued to the Petitioner Margaret Akello Ohas be and is hereby reviewed and set aside.



2. That I hereby confirm the grant issued the Margaret Akello Ohas on February 21, 2011 as per the fresh proposed mode of distributions filed on October 5, 2022, including therein an extra asset namely, Siaya/Mulaha/1454.
 3. That a fresh certificate of confirmation of grant is hereby issued, confirming the grant issued on February 21, 2011.
 4. That the Administratrix Margaret Akello Ohas to administer the deceased's estate in accordance with the law and to fully distribute the said estate to the beneficiaries of the estate as per the adopted mode of distribution as filed on October 5, 2022 and to complete the entire process within six (6) months from the date hereof and file into court accounts as contemplated in section 83 of the *Law of Succession Act*.
 5. Mention on September 20, 2023 to confirm compliance and in default, the court shall revoke the grant herein issued and confirmed.
7. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 15TH DAY OF MARCH, 2022

R. E. ABURILI

JUDGE

