



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Luke Owuor Ochido (Deceased) (Succession Cause
753 of 2013) [2023] KEHC 3122 (KLR) (17 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3122 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 753 OF 2013**

RE ABURILI, J

APRIL 17, 2023

**IN THE MATTER OF THE ESTATE OF LUKE OWUOR OCHIDO -
(DECEASED)**

BETWEEN

PHILIPA NYAMULO OCHIDO PETITIONER

AND

MARGARET A. KASEJE 1ST OBJECTOR

TIMOTHY A. O. OCHIDO 2ND OBJECTOR

MICHAEL M. OCHIDO 3RD OBJECTOR

JONATHAN M. OCHIDO 4TH OBJECTOR

RUTH A. OCHIDO 5TH OBJECTOR

RULING

1. This court on January 16, 2023 directed the Deputy Registrar to notify the parties to these proceedings to file a schedule of distribution of the estate within thirty (30) days. On that day, none of the parties or their representatives were in court.
2. By March 15, 2023, none of the parties had complied and neither did they attend court. The court therefore restated the directions of January 16, 2023 and issued an extension by a further twenty one (21) days for compliance.
3. Those directions were served upon the parties' counsel and they elicited the application dated March 22, 2023.
4. I have perused the application dated March 22, 2023 and the grounds together with the supporting affidavit. I observe that there is another matter pending in respect of the estate of the deceased Luke



Owuor Ochido, being Succession Cause No E15 of 2021 where a limited grant was issued to Margaret Achieng Kaseje, to preserve the estate of the deceased, which was feared to be intermeddled vide proceedings commenced at Maseno Principal Magistrate's Court by Philipa Nyamulo Ochido, one of the widows and beneficiaries of the estate giving rise to this matter.

5. The Succession Cause No. E15 of 2021 was intended to arrest the process of intermeddling which was said to be ongoing.
6. It follows that no grant can be confirmed on this file when E15 of 2021 is pending as that would aid in the alleged intermeddling of the estate of the deceased.
7. For the above reasons, and without letting the parties argue out on the merits and demerits of the application dated March 22, 2023, I hereby review and set aside this court's directions given on January 16, 2023 and March 15, 2023 respectively and direct that this matter, as a finding has already been made on the Petitioner herein intermeddling in the estate of the deceased, no certificate of confirmation can be issued on the same.
8. Accordingly, the Summons for confirmation of grant dated November 16, 2020 are incapable of being heard and considered in this file. The same is struck out and this file is closed.
9. The court shall proceed to consider the matter of the estate of the deceased vide Succession Cause No E15 of 2021 and make appropriate orders as may be necessary to meet the ends of justice.
10. However, for purposes of institutional memory on what had initially transpired in respect of the estate of the deceased, this file shall be placed in Succession Cause No E15 of 2021 henceforth.
11. File closed.
12. I make no orders as to costs.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 17TH DAY OF APRIL, 2023

R. E. ABURILI

JUDGE

