



REPUBLIC OF KENYA



In re Estate of Joshua Abongo Sewe alias Josiah Osewe - Deceased (Succession Cause 633 of 2014) [2023] KEHC 24989 (KLR) (19 September 2023) (Ruling)

Neutral citation: [2023] KEHC 24989 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 633 OF 2014
RE ABURILI, J
SEPTEMBER 19, 2023**

RULING

1. The application dated 9th June 2022 filed by Mr. P. D. Onyango Advocate for the Petitioner seeks for orders of this court to grant him leave to cease acting for the Petitioner herein Judith Atieno Ochiel.
2. The application is not opposed and the Petitioner is present in court. She has indicated that she is aware of the application and that she has no objection to the advocate ceasing to act for her.
3. Accordingly, I hereby grant leave to the firm of P. D. Onyango Advocate to cease acting for the Petitioner Judith Atieno Ochiel forthwith.
4. Henceforth, the Petitioner herein Judith Atieno Ochiel will act in person and would only hold the land in issue in trust for the bonafide beneficiaries as there is the risk of the children who are grandchildren of the deceased being disinherited.
5. The Petitioner no doubt failed to disclose to court material facts of the existence of other beneficiaries of the estate of the deceased and went ahead to assign herself the estate property wholly. That is unacceptable in law.
6. This court exists to protect estates of deceased person and under section 39 of the [Law of Succession Act](#), the law provides for the meaning of dependants.
7. The Petitioner herein is not in the 1st degree of the dependants stipulated in section 29 of the [Law of Succession Act](#).
8. In addition, under section 76 of the [Law of Succession Act](#), a grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion upon fulfilment of the conditions set out thereunder.
9. Having examined the Petitioner and considered the proceedings leading to the issuance of the grant as confirmed, I am satisfied that the same was obtained by concealment from court of something material to the case namely, the existence of other beneficiaries who are Rose Akinyi, the deceased's daughter



who is alive and the deceased's grandchildren in whose trust the Petitioner herein would be expected to hold the estate of the deceased.

10. For the above reasons, I hereby proceed and revoke and annul the grant issued to the Petitioner Judith Atieno Ochiel on 1st October 2014 and confirmed on September 16, 2015 and order that any subsequent actions undertaken by the Petitioner in the administration of the said estate are hereby nullified and quashed.
11. I so order and close this file. Persons who are beneficially entitled to the estate of the deceased are at liberty to petition for a fresh grant.
12. The grant and certificate of confirmation of grant are recalled to be surrendered in 7 days of today.
13. This order to be served on the Area Chief.
14. File closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 19TH DAY OF SEPTEMBER, 2023.

R. E. ABURILI

JUDGE

