



REPUBLIC OF KENYA



In re Estate of Christopher Nyangoma Oronge (Deceased) (Succession Cause 1786 of 2015) [2023] KEHC 24362 (KLR) (Family) (18 September 2023) (Ruling)

Neutral citation: [2023] KEHC 24362 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 1786 OF 2015
EKO OGOLA, J
SEPTEMBER 18, 2023
IN THE MATTER OF THE ESTATE OF CHRISTOPHER
NYANGOMA ORONGE (DECEASED)**

RULING

1. The Application before this Court is dated 17th May 2023. The applicant prays for the following Orders:-
 - a. That the grant of letters of administration intestate issued to Lilian Atieno Ouma and Peter Odongo on the 21st August 2017, be revoked for being rendered useless and inoperative by reason of subsequent circumstances.
 - b. That the honourable court do issue to Kelvin Oronge Atieno, the Applicant herein, a grant of letters of administration de bonis non-intestate for purposes of completion of administration of the estate of Christopher Nyangoma Oronge (deceased).
 - c. That the Honorable Court do thereafter confirm the grant of letters of administration de bonis non in respect of the estate of Christopher Nyangoma Oronge with the estate to be bequeathed in whole to Kelvin Oronge Atieno, the Applicant herein.
 - d. That this honorable Court be pleased to grant any further or other order as it deems fit and necessary to meet the end of justice.
 - e. That the cost of this application be provided for.
2. The Applicant avers that he is the sole child of the deceased and Lilian Atieno Ouma(deceased). He was born on 2nd January 1998 to Christopher Nyangoma Oronge and Lilian Atieno Ouma. Christopher Nyangoma Oronge died intestate on 2nd November 2000. A grant of letters of Administration intestate in respect of the estate of Christopher Nyangoma Oronge was made on 21st August 2017 to Lilian Atieno Ouma and Peter Odongo.



3. It is stated that Peter Odongo was made co-administrator of the said estate by reason of a continuing trust as the Applicant was a minor when the application for grant of letters of administration intestate was filed. The Applicant's mother, Lilian Atieno Ouma later died on 4th January 2019 before the said grant was confirmed and before she completed the administration of the Estate. Before her demise, Lilian Atieno Ouma had filed Summons for Confirmation of grant dated 23rd April 2018 which are yet to be determined.
4. The Applicant further avers that the Estate comprises of a single parcel of land L.R. No. 24402 IR 82856. The whereabouts of Peter Odongo are unknown. According to the Applicant, Peter Odongo is the only one who can be able to locate the location of the said parcel of land. It is stated that Peter Odongo is not the brother to Christopher Nyangoma Oronge (deceased) as alleged in the pleadings filed by Lilian Atieno Ouma (deceased).
5. The Applicant stated that his late father had two brothers and one sister; Gordon Olewe Oronge, Richard Akelo Oronge, and Alice Oronge. He averred Peter Odongo is unknown by the deceased family. The Applicant further stated that Peter Odongo has failed to diligently administer the estate, hence, the estate is at risk of being wasted.

Determination

6. After careful analysis of the Summons, the Affidavit in support, and the entire record, I find that the main issue for determination is whether the Applicant has presented sufficient evidence to warrant revocation or annulment of the grant issued by this Court on 21st August 2017.
7. The Law on the Revocation of Grant is stipulated in Section 76(e) of the *Law of Succession Act*. It gives the Court the power to revoke a grant provided the conditions stipulated therein have been met. It states that:-

“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:-

- a.
 - b.
 - c.
 - d.
 - e. The grant has become useless and inoperative through subsequent circumstances.
8. In this case, the grant was issued in the year 2017. One of the Co-administrators Lilian Atieno Ouma died on 4th January 2019. The other co-administrator, Peter Odongo has not proceeded to administer the estate. The estate has neither been distributed nor has the grant issued been confirmed. In addition to this, the whereabouts of the co-administrator are unknown. In the circumstances, the grant issued on 17th August 2017 to Lilian Atieno Ouma and Peter Odongo has become useless and inoperative through subsequent circumstances and it is hereby revoked and annulled.



9. Should prayer (b) and (c) be issued? Section 51 of the *Law of Succession Act* states as follows:-

“Every application for a grant of representation shall be made in such form as may be prescribed, signed by the applicant and witnessed in the prescribed manner.”

10. Further to this, Section 67(1) provides that:-

“No grant of representation, other than a limited grant for collection and preservation of assets, shall be made until there has been published notice of the application for such grant, inviting objections thereto to be made known to the court within a specified period of not less than thirty days from the date of publication, and the period so specified has expired.”

11. Section 71(1) goes on to stipulate how a grant should be confirmed. It states that:-

“After the expiration of a period of six months, or such shorter period as the court may direct under subsection (3), from the date of any grant of representation, the holder thereof shall apply to the court for confirmation of the grant in order to empower the distribution of any capital assets.”

12. The *Act* is clear on the procedures to be followed to apply for a grant of letter of Administration intestate and how the said grant can be confirmed. This process should not be set aside because the Applicant is the remaining beneficiary of the Estate.

13. From the for egoing, I hereby make the following Orders:-

- a. The grant of letters of administration issued on 17th August 2017 to Lilian Atieno Ouma (deceased) and Peter Odongo is hereby revoked.
- b. Prayer (b) and (c) dismissed for lack of merit.
- c. The cost of the Application be in the cause.

14. The Applicant is at liberty to Petition the court to be appointed as the administrator of the deceased estate.

It is so ordered

DATED AND DELIVERED IN NAIROBI THIS 18TH DAY OF SEPTEMBER 2023

E.K. OGOLA

JUDGE

In the presence of:

Mr. Ochieng' for the Applicant

Gisiele Muthoni Court Assistant

