



REPUBLIC OF KENYA



**In re Estate of Desterio Ojuma Omoite (Deceased) (Succession Cause
133 of 2010) [2023] KEHC 23361 (KLR) (13 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23361 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
SUCCESSION CAUSE 133 OF 2010
WM MUSYOKA, J
OCTOBER 13, 2023**

RULING

1. The application for determination is the summons for revocation of grant, dated 3rd April 2023. I had given directions on 13th June 2023, for disposal of the said application by way of written submissions, and the parties have complied, by filing their respective written submissions.
2. However, when I settled to prepare the ruling to dispose of the said application, I was persuaded that I ought to change my mind, and require the parties to give oral evidence. The matter is highly contested. Several summonses for revocation of grant have been filed. One was disposed of, on 24th March 2021, by Karanjah J, dated 16th April 2013. Karanjah J noted that there was still another summons for revocation pending, dated 14th February 2020. The issues arising, relating to who constitutes the family of the deceased, and the alleged lifetime distribution of the estate by the deceased, among others, can only be properly disposed of by way of oral evidence, where the parties get a chance to cross-examine, in order to dig deeper into the issues. Written submissions will not do justice to the matter.
3. The fact of these multiple revocation applications is symptomatic of general unease and dissatisfaction with the matters as they stand, with respect to the estate herein. For peace to prevail within the family, let whoever has an issue get a chance to be heard, in open court, where all the pending issues ought to be thrashed out. There should be no point of rushing to close this matter, when issues are still festering, and have not been settled for a majority of family members. Closure can only be achieved after all have been heard on their issues.
4. Consequently, I do hereby reverse my earlier directions, and now order that the application, dated 3rd April 2023, shall be disposed of simultaneously with that dated 14th February 2020, and any other that is still pending, by way of viva voce evidence, based on the affidavits and witness statements so far filed. I shall allocate a date for the oral hearings, at the delivery of this ruling. It is ordered accordingly.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT BUSIA ON THIS 13TH DAY OF
OCTOBER 2023**

WM MUSYOKA



JUDGE

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Ouma, instructed by BM Ouma & Company, Advocates for the applicant.

Mr. Benjamin Omoite, the administrator, in person.

