



REPUBLIC OF KENYA



**In re Estate of Abisalom Adera Nyabinge alias Nyabinge Adera (Deceased) (Succession Cause 910 of 2015) [2023] KEHC 23395 (KLR) (5 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23395 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
SUCCESSION CAUSE 910 OF 2015  
RE ABURILI, J  
OCTOBER 5, 2023**

**BETWEEN**

**JECTON ODHIAMBO NYANGORO ..... PETITIONER**

**AND**

**JENIFA ANYANGO AGANYO ..... APPLICANT**

**RULING**

1. I have perused the summons for rectification of grant dated August 23, 2023 seeking for rectification of grant issued to Jectone Odhiambo Nyangoro now deceased and that the deceased administrator be substituted with Jenifa Anyango Aganyo the Applicant herein.
2. The Applicant also seeks that the name of the deceased be rectified to read Abisalom Adera Nyabinge alias Nyabinge Adera not Abisalim Madera Nyabinge as indicated in the certificate of confirmation of grant.
3. Further, that the administrator Jectone Odhiambo Nyangoro now deceased had transferred land parcel Nos. Kisumu/Dianga East/727 and Kisumu/Dianga East 1543 to his names before completion of the succession proceedings hence the same should be reverted back to the names of the deceased.
4. The summons are supported by the affidavit sworn by Jenifa Anyango Aganyo reiterating the prayers sought in the summons for rectification of grant annexing the death certificate for the deceased intestate and administrator as well as the search certificate showing that whereas some parcels of land are still registered in the intestate deceased's names, two of those parcels namely Kisumu/Dianga East/727 and Kisumu/Dianga East/1543 are registered in the name of Jectone Odhiambo Nyangoro vide succession cause No. 910 of 2015 and the registration was done on May 30, 2016.
5. I observe that the grant was issued on March 16, 2016 and before the same could be confirmed, which confirmation was done on July 19, 2021 after the death of the administrator Jactone Odhiambo



Nyangoro, the latter had already transferred the two named parcels of land into his names which is contrary to section 45 of the Law of Succession Act.

6. In addition, the grant was confirmed on July 19, 2021, long after the administrator had died but none of the beneficiaries who attended court on July 19, 2021 disclosed to the court that the administrator had since died as per the death certificate No. 2462100484 showing that the administrator Jectone Odhiambo Nyangoro died on March 9, 2021.
7. That being the case, the orders that this court can make in the circumstances of this case are as follows:
  1. That the grant of letters of administration intestate in respect of the estate of Abisalom Adera Nyabinge issued to Jectone Odhiambo Nyangoro on 16<sup>th</sup> March 2016 by this court, which administrator is now deceased, has become inoperational and useless and is hereby revoked.
  2. That the orders made on July 19, 2021 confirming the above grant, in the name of the deceased administrator Jectone Odhiambo Nyangoro, which confirmation was done after the death of the administrator without any substitution are hereby set aside and vacated.
  3. That as the deceased administrator Jectone Odhiambo Nyangoro caused to be transferred into his names Land Parcel Nos. Kisumu/Dianga East/727 and Kisumu/Dianga East/1543 before the grant issued to him on 16<sup>th</sup> March 2016 was confirmed contrary to section 45 of the Law of Succession Act, I hereby revoke, annul and cancel the said registration which was unlawful and order that the said parcels of land shall revert back to the names of the deceased Abisalom Adera Nyabinge also known as Nyabinge Adera (as some other parcels of land are registered in the name of Nyabinge Adera).
  4. That I decline to substitute the deceased administrator with Jenifa Anyango Aganyo in view of the illegalities occasioned to the estate and having revoked the grant and set aside the order confirming the said grant, the certificate of confirmation of grant issued on July 17, 2021 be and is hereby recalled, annulled and expunged from the court record.
  5. The beneficiaries of the estate of the deceased Abisalom Adera Nyabinge alias Nyabinge Adera shall petition for a fresh grant of letters of administration intestate.
  6. The Ruling hereof to be typed and supplied to the beneficiaries to present to the Land Registrar, Kisumu for compliance with the order cancelling the registration of the deceased Jectone Odhiambo Nyangoro as proprietor of land parcel Nos. Kisumu/Dianga East/727 and Kisumu/Dianga East/1543.
8. This file is now closed.
9. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 5<sup>TH</sup> DAY OF OCTOBER, 2023.**

**R. E. ABURILI**

**JUDGE**

