



REPUBLIC OF KENYA



**In re Estate of Godfrey Alati Olukoye (Deceased) (Succession Cause 2044 of 2010)
[2024] KEHC 14157 (KLR) (Family) (14 November 2024) (Judgment)**

Neutral citation: [2024] KEHC 14157 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

FAMILY

SUCCESSION CAUSE 2044 OF 2010

SN RIECHI, J

NOVEMBER 14, 2024

IN THE MATTER OF THE ESTATE OF GODFREY ALATI OLUKOYE (DECEASED)

JUDGMENT

1. The Deceased Godfrey Alati Olukoye died on 25.3.2010. As per the Chief's Luanda Township Location letter dated 20.8.2010, he was survived by 2 wives Judith Betty Ayuma and Emily Dorothy Oseno and 5 children namely:
 - a. Emily Dorothy Oseno (Widow)
 - b. Gerry Alati Olukoye
 - c. Isabel Khalechi Olukoye
 - d. Robinson Anambo Olukoye
 - e. Stella Awinja Olukoye
 - f. Gerry Alati Olukoye
 - g. Gertrude Amisi Olukoye
-
2. Judith Betty Ayuma and Emily Dorothy Oseno petitioned for grant of letters of administration intestate. A grant of letters of administration intestate was jointly issued to the widows on 13.5.2011.
3. By a Summons dated 10.8.2020, the Applicant, moved this Court seeking the confirmation of the Grant. The consent was only signed by three children of the deceased, Stella Awinja Olukoye, Gerry Alati Olukoye and Gertrude Amisi Olukoye, leaving out two beneficiaries, Isabel Kahalechi Olukoye and Robinson Anambo Olukoye.
4. The Protestor opposed the Summons by her Affidavit of Protest dated 25.2.21. She accused the Applicant of seeking confirmation of grant without consulting her as co-administrator and without the



consent of all the beneficiaries. The Protestor further stated that without her involvement and consent of some beneficiaries, the Summons was defective. She accused the Applicant of ignoring the proposal for distribution which she had sent to her and went ahead and filed a totally different distribution schedule. She urged the Court to order that both Administrators agree on the mode of distribution of the estate and file a fresh summons for confirmation of grant.

5. By Ruling dated 25.2.2022 Thande J. directed

In the end, I make the following orders which are necessary for the ends of justice:

- i. The summons for confirmation dated 10.8.2020 and the affidavit of protest dated 25.2.21 shall be served upon all beneficiaries of the estate by 11.3.22.
- ii. The beneficiaries are at liberty to file responses which must be filed by 25.3.22.
- iii. Mention on 11.4.22 further directions.

6. By Consent the Summons for Confirmation and Protest were canvassed together by way of viva voce evidence. The applicant and protestor were directed to file their respective proposed mode of distribution.

7. Emily Dorothy Olukoye adopted her witness statement dated 12.7.2023 and affidavit sworn on 12.7.2023 and affidavit sworn on 15.3.2021 as her evidence in chief. Emily testified that the deceased was her husband. She testified that the deceased had 2 wives Judith Betty Auma and Emily Dorothy Oseno. Judith had 2 children.

- a. Isabel Khalechi Olukoye
 - b. Robinson Anambo Olukoye
- Emily had two children:

- a. Gerry Alati Olukoye
- b. Gertrude Amisi Olukoye

8. The Deceased had a child called Stella Awinja Olukoye whose mother is not subject to these proceedings.

9. Emily testified that the only dispute relates to the distribution of Kajiado /Kitengela/1107 and Kajiado /Kitengela/11058. She testified that Judy had claimed to have one of the Plots after the death of deceased. She therefore recommend that Judy be given 11057 and Stella be given 11058 which is undeveloped. On her part she proposed that she retains the Kahawa Sukari Property.

10. Stella Awinja Olukoye a daughter of the deceased testified that Emily had allocated her Kajiado / Kitengela/11057 and NAIROBI BLOCK 82/2835. She was however willing to relocate to Kajiado Kitengela/11058 and relinquish Maragua Township unsurveyed residential plot No. 37 and Nairobi Block 82 to be distributed to others. Judith Betty Ayuma testified that the property in contention is Kajiado / Kitengela/11057 and Kajiado / Kitengela/11058. She testified that she had developed Kajiado / Kitengela/11057 which should be allocated to her and Kajiado / Kitengela/11058 to Isabel a child of the deceased and she will hold it in trust. In her proposal she has given Stella NAIROBI BLOCK 82/2835 and e. Maragua Township unsurveyed residential plot No. 37. The deceased's estate comprised the following properties.

- a. Kajiado / Kitengela/11057
- b. Kajiado / Kitengela/11058



- c. Nairobi Block 82/2835
 - d. Kahawa Sukari Limited Plot No. 1277
 - e. Maragua Township unsurveyed residential plot No. 37
 - f. L.R. No. 24854, Makuyu
 - g. Motor vehicle KAD 390S
 - h. CMC shares
 - i. KCB shares
 - j. Evereadyshares
 - k. Kengen shares
 - l. Mumias Sugar Co. shares
 - m. Safaricom shares
 - n. Pension from Kenyatta University
11. The two administrators would not agree on consent on proposed mode of distribution. This court directed the applicant Emily to file proposed mode of distribution and the objector to file hers. Both complied.
12. Emily the applicant proposed the distribution as hereunder:

TABLE

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Name

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Description of property

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Share of Heir

TR

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Emily Dorothy Osen

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-kahawa Sukari Limited

Plot Number 1277

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To Hold For Life And

Thereafter To Be Shared



Between Gerry Alati

Olukoye And Gertrude

Amisi Olukoye In Equal

Shares.

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- M/v Reg. No. Kad 390-s

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Absolute

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Gerry Alati

Olukoye And

Gertrude Amisi Olukoye

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- L. R. Number 24854-

Makuyu

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To Be Shared Equally

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Judith Betty Ayuma

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-Kajiado / Kitengela/11057 -maragua Township

Unsurveyed

Residential Plot No.37

- Nairobi Block 82/2835

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To Hold For Life And

Thereafter To Be Shared

Between Robinson Anambo Olukoye & Isabel Khalechi

Olukoye

TR

TC{style border: 1px solid #000; width: 28%}



Stella Awinja Olukoye

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-Kajiado / Kitengela/11058

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Absolute

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-isabel Khalechi Olukuye

-robinson Anambo Olukuye

-stella Awinja Olukuye

-gerry Al-ati Olukuye

-gertrude Amasi

Olukuye

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-c.m.c Shares -2,000

-k.c.b. Shares -2,093

-eveready Shares -2,000

-kengen Shares -2,500

Mumias Sugar Co.

Shares - 5,400

-safaricom Shares -10,000

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To Be Shared Equally Amongst The Five.

12. This proposal is supported by

1. Stella Awinja
2. Gerry Alati
3. Getrude Amasi Olukoye

13. Judith Betty Ayuma the 2nd Administrator filed her preferred mode of distribution as hereunder;



Name	Description of property	Share of Heir
Emily Dorothy Oseno	Kahawa Sukari Limited Plot Number 1277	To Hold For Life And Thereafter To Be Shared Between Gerry Alati Olukoye And Gertrude Amisi Olukoye In Equal Shares.
	M/v Reg.no.kad 390-s	Absolute
Gerry Alati Olukoye And Gertrude Amisi Olukoye	L.r.number 24854 Makuyu	To Be Shared Equally
Judith Betty Ayuma Robinson Anambo Olukoye	Kajiado / Kitengela/11057	Equally
Isabel Kalechi Olukoye Stella Awinja Olukoye	Kajiado / Kitengela/11058Nairobi Block 82/2835Maragu TownshipUnsurveyedResidential Plot No.37	Equally
-isabel Khalechi Olukoye Robinson Anambo Olukoye Stella Awinja Olukoye Gerry Alati Olukoye Gertrude Amasi Olukoye	C.m.c Shares -2,000K.c.b Shares- 2,093Everready Shares -2,000Kengen Shares-2,500Mumias SugarCo. Shares -5,400- safaricom Shares- 10,000	To Be Shared Equally Amongst The Five Beneficiaries.

14. The 2nd Administrator's proposal is supported by:
- a. Isabel Khalechi Olukoye
 - b. Robinson Anambo Olukoye
15. I have considered the rival preferred mode of distribution. The duty of a Probate Court is to ascertain the estate of deceased; identify the beneficiaries and distribute the estate to the beneficiaries equitably. Having considered the proposed mode of distribution filed by the administrators respectively. I direct that distribution of the estate of the deceased be and is hereby confirmed as hereunder:



Name	Description of property	Share of Heir
Emily Dorothy Osen	Kahawa Sukari Limited Plot Number 1277	To Hold For Life And Thereafter To Be Shared Between Gerry Alati Olukoye And Gertrude Amisi Olukoye In Equal Shares.
	M/v REG.NO.KAD 390-S	Absolute
Gerry Alati Olukoye And Gertrude Amisi Olukoye	L.r.number 24854 Makuyu	To Be Shared Equally
Judith Betty Ayuma Robinson Anambo Olukoye	Kajiado / Kitengela/11057	Equally
ISabel Kalechi Olukoye Stella Awinja Olukoye	Kajiado / Kitengela/11058Nairobi Block 82/2835Maragu TownshipUnsurveyedResidential Plot No.37	Equally
-Isabel Khalechi Olukoye Robinson Anambo Olukoye Stella Awinja Olukoye Gerry Alati Olukoye Gertrude Amasi Olukoye	C.m.c Shares -2,000K.c.b Shares- 2,093Everready Shares -2,000Kengen Shares-2,500Mumias SugarCo. Shares -5,400- safaricom Shares- 10,000	To Be Shared Equally Amongst The Five Beneficiaries.

DATED AT NAIROBI THIS 14TH DAY OF NOVEMBER, 2024

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S. N. RIECHI

JUDGE

