



**In re Estate of Joas Opiyo Ogendo (Deceased) (Miscellaneous Succession Cause E065 of 2024) [2024] KEHC 13569 (KLR) (6 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 13569 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS SUCCESSION CAUSE E065 OF 2024  
RE ABURILI, J  
NOVEMBER 6, 2024  
IN THE MATTER OF THE ESTATE OF JOAS OPIYO OGENDO (DECEASED)**

**IN THE MATTER OF  
LORNA OMULO PIOYO ..... APPLICANT**

*(Arising from Kisumu HC Succession Cause No. 828 of 2007)*

**RULING**

1. The application by way of summons for confirmation of grant dated 7<sup>th</sup> August 2024 seeks for confirmation of the grant issued to Lorna Omulo Opiyo on 13<sup>th</sup> February 2008 in Kisumu HC Succession Cause No. 828 of 2007.
2. The beneficiaries of the estate of the late Joas Opiyo Ogendo have agreed on the mode of distribution of the estate and have confirmed their agreement by appearing in court physically and the court has verified them by their respective National Identity Cards.
3. Evaline Akinyi Onyango is the widow to Jared Onyango Opiyo who is deceased and was the son to the intestate herein. She will therefore get an equal share as proposed, but hold the property in trust for herself and the children of the deceased Jared Onyango Opiyo.
4. Concerning Shajanand Holdings Limited, the court observes that the company obtained title before the grant was confirmed but the beneficiaries who sold the land Kisumu/Kadongo/1030 to the company have no interest in that land and have no objection to the company retaining the land and title.
5. The process of acquisition of that title is, in law, faulty as no transfer of the deceased's property could be undertaken before the grant was confirmed.
6. However, as the beneficiaries who facilitated that process as illegal as it is are here and have been notified of that illegality; and have no issue with the buyer, I shall say no more that the asset Kisumu/



Kadongo/1030 not being registered in the name of the deceased Joas Opiyo Ogendo, cannot now be sanitized through a confirmation order.

7. In the end, I confirm the grant issued on 13<sup>th</sup> September 2008 vide Kisumu HC Succession Cause No. 828 of 2007 to Lorna Omulo Opiyo to administer the estate of Joas Opiyo Ogendo (deceased) and order that the property in Suna/Manyatta/176 be distributed as agreed by all the beneficiaries save that Evaline Akinyi Onyango shall hold that share in trust for herself and children that she bore with Jared Onyango Opiyo.
8. A certificate of confirmation of grant to issue forthwith. I note that the petitioner is an aged lady born in 1942 as per her national identity card and I therefore direct the Court Assistant to remit this ruling to my Office Administrator to forthwith type the Certificate of Confirmation of grant and bring it to open court for signature as the petitioner and the other beneficiaries wait in open court.
9. Subject to Section 83 of the [Law of Succession Act](#) on filing into court of accurate accounts on the distribution of the estate of the deceased within 6 months of today, this file is now closed.
10. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 6<sup>TH</sup> DAY OF NOVEMBER, 2024**

**R. E. ABURILI**

**JUDGE**

