



REPUBLIC OF KENYA



**In re Estate of Amos Odundo Gombe (Deceased) (Miscellaneous Succession Cause E094 of 2024) [2024] KEHC 15851 (KLR) (16 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15851 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS SUCCESSION CAUSE E094 OF 2024**

**RE ABURILI, J**

**DECEMBER 16, 2024**

**IN THE MATTER OF THE ESTATE OF AMOS ODUNDO GOMBE (DECEASED)**

**AND**

**IN THE MATTER OF AN APPLICATION BY JULIUS GOMBE ODUNDO,  
JARED OMONDI ODUNDO, CHARLES NYADOLA ODUNDO  
AND FANUEL OTIENO ODUNGO – PETITIONERS/APPLICANTS**

*(Arising from Kisumu HC Succession No. 635 of 2012)*

**RULING**

1. This matter has its origin in HC Succession Cause No. 635 of 2012. It relates to the estate of the late Amos Odundo Gombe.
2. A grant of Letters of Administration Intestate was issued on 1<sup>st</sup> December, 2016 to Julius Gombe Odundo, Jael Yamo Odundo and Marsela Adongo Odundo.
3. The deceased was polygamous. Disputes arose but were resolved through mediation. A Mediation Settlement Agreement was reached on 2<sup>nd</sup> June 2022 and filed into court on 14<sup>th</sup> February 2023.
4. It appears that some of the administrators namely, Jael and Marsela died and were substituted as shown by the amended grant issued on 10<sup>th</sup> August 2023.
5. On the same day, a certificate of confirmation of grant was issued to the present administrators Julius Gombe Odundo, Jared Omondi Odundo, Charles Nyadola Odundo and Fanuel Otieno Odundo.
6. Vide Summons for Rectification of Grant dated 17<sup>th</sup> January 2024, the administrators sought for rectification of the certificate of confirmation dated 10<sup>th</sup> August 2023 to substitute deceased beneficiaries.
7. That application was dismissed on 24<sup>th</sup> April 2024 and the reasons for dismissal are contained in the brief Ruling namely, ‘that the property distributed to a person/beneficiary who is now deceased belongs to their deceased estate and that the court was functus officio.’ The file marked as closed.



8. The administrators have now returned to court with another Summons for Rectification of grant dated 18<sup>th</sup> November 2024 under certificate of urgency, when the court that declined the earlier summons was on leave.
9. They seek for rectification of Certificate of Confirmation of Grant to include properties/assets which were excluded in the earlier certificate of confirmation namely; North Sakwa/1262 and North Sakwa/1462.
10. The second error sought to be rectified is the misdescription of property Kisumu Mun. Plot No. 7/459 which was erroneously written as Kisumu Mun. Plot No. 7/159.
11. I have considered the Summons for rectification of Grant. On the face of it, the rectification sought make lots of sense. However, when I inquired further from the Petitioners, it came apparently live that some of the beneficiaries representing households as per the Mediation Settlement Agreement filed on 14<sup>th</sup> February 2023 have since died.
12. Secondly, some properties listed were already transferred to some of the beneficiaries who have since died hence this court cannot permit administration of different estates which are not part of this Succession cause (administration within administration).
13. I therefore reserved this matter for this Ruling to guide the parties who are self-represented and these are my directions: that the petitioners/ administrators do the following, to enable the grant as issued to be capable of being confirmed, for the administration of the deceased's estate to be completed successfully and expeditiously:
  1. Cause the Mediation Settlement Agreement to be capable of enforcement/implementation by breaking down households to individual beneficiaries in those respective households since the heads of those households have since died before distribution of the estate was done.
  2. Since some assets are already registered in the names of deceased beneficiaries, to cause the succession process to take place in the estates of deceased beneficiaries, separate from this Succession Cause so as to allow beneficiaries of those assets to share in those respective assets/ estates
  3. Only assets registered in the name of the deceased Amos Odundo Gombe is capable of being administered/distributed in this cause to the beneficiaries as per the Mediation Settlement Agreement.
  4. Only after the above 1, 2, 3 are complied with will the rectification of the Certificate of confirmation of grant make any practical sense.
  5. No name of the deceased beneficiary should appear as beneficiary.
  6. The use of the words 'household' and "family" in the Certificate of Confirmation of grant as sought to be rectified and be substituted with specific names of individual beneficiaries sharing in the identified asset (s) with their respective shares identified.
  7. The use of the words 'registered jointly' being technical terms not understood by the beneficiaries and the administrators themselves, to be eliminated and substituted with "to hold in trust" for specific individual named family members or beneficiaries.
  8. Where the shares are stated to be 'subject to succession thereafter whole', should be eliminated and clear specific beneficiaries identified. If the property/land is registered in the names of different persons from the deceased Amos Odundo Gombe, it should be excluded from



distribution in this Succession Cause but reserved for separate succession Cause, where beneficiaries will be identified and their respective shares assigned.

9. All official search certificates for the assets in the estate of the deceased in this Succession Cause be filed into court for the court to appreciate what properties belong and are subject of the administration of the estate of the deceased Amos Odundo Gombe. Only then can this court give effect to the Mediation Settlement Agreement filed in court on 14<sup>th</sup> February 2023.
  10. Accordingly, as there are pending issues for correction and clarification, it will be superfluous to rectify the Certificate of Confirmation of Grant issued in Kisumu HC Succession Cause No. 635 of 2012 in the manner proposed in the Summons for Rectification of Grant dated 18<sup>th</sup> November 2024. The said Summons are hereby struck out.
  11. The administrators are granted 60 days of today to study this Ruling, consult an advocate to aid them understand it better if they find it necessary and file an appropriate application to enable the court confirm the grant and cause final distribution and administration of the estate of the deceased Amos Odundo Gombe.
14. Mention on 24<sup>th</sup> February, 2025 to confirm the filing of the appropriate application and documents as directed herein, after complying with the directions as given.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 16<sup>TH</sup> DAY OF DECEMBER, 2024**

**R. E. ABURILI**

**JUDGE**

