



**In re Estate of Khurshid Ahmed Butt (Deceased) (Succession Cause 693 of 2009) [2024] KEHC 15399 (KLR) (Family) (5 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15399 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 693 OF 2009  
EKO OGOLA, J  
DECEMBER 5, 2024  
IN THE MATTER OF THE ESTATE OF KHURSHID AHMED BUTT (DECEASED)**

**BETWEEN**

**COL. (RTD) FAROOQ ASIF BUTT ..... APPLICANT**

**AND**

**JAMESHED AHMMED BUTT ..... 1<sup>ST</sup> RESPONDENT**

**FEHMIDA BEGIUM BUTT ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. What is before this court for determination is an Amended Statement of Particulars and Terms of Sale dated 15<sup>th</sup> December 2021. The respondents are the registered proprietors of Land Parcel Number Mombasa M.S. /Block 1/ 416, Likoni. The applicant stated that this Court on 22<sup>nd</sup> May 2013 issued an order for the Attachment and Sale of the property.
2. In response, Mohammed Bulle Ahmed, counsel for the respondents, filed a Replying Affidavit where he deposed that there is an appeal before this court on the Ruling awarding interest on costs. The appeal is P&A Reference Application No. E.215 of 2021, and that there is an application for a stay of these proceedings pending the determination of the said appeal. According to counsel, the respondent would be greatly prejudiced and suffer substantial loss if the Amended Statement of particular and proposed terms of sale is determined before the appeal is heard and determined.
3. Parties were directed to file written submissions to argue their case. I have read and considered these rival submissions.



## **Determination**

4. There is an application dated 19<sup>th</sup> November 2021 in P&A Reference Application No. E215 of 2021. The application sought a stay of the Ruling of the Taxing Master dated 9<sup>th</sup> November 2021; for the said Ruling to be set aside and for the application dated 6<sup>th</sup> April 2017 to be allowed; in the alternative to prayer (2), that the application dated 6<sup>th</sup> April 2017 be referred back to the taxing master for determination.
5. This court considered the said application. By a Ruling of this Court dated 5<sup>th</sup> December 2024, this court set aside the Ruling of the Taxing Master dated 9<sup>th</sup> November 2021 on the grounds that the Taxing master used an incorrect law in determining the application dated 6<sup>th</sup> April 2017. Consequently, the application dated 6<sup>th</sup> April 2017 was ordered to be returned back to the Taxing matter for a fresh hearing and determination.
6. From the foregoing, I stay the determination of the Amended Statement of Particulars and Terms of Sale dated 15<sup>th</sup> December 2021 until the Taxing Master hears and determines the application dated 6<sup>th</sup> April 2017.

Orders accordingly.

**DATED AND DELIVERED AT NAIROBI ON THIS 5<sup>TH</sup> DAY OF DECEMBER 2024.**

.....  
**E.K. OGOLA**

**JUDGE**

In the presence of:

Mr. Andati for the Applicant.

Mr. Kaya h/b for Mr. Bulle for the Respondents.

M/s Gisiele M Court Assistant.

