



REPUBLIC OF KENYA



**In re Estate of George Bagshaw (Deceased) (Succession Cause
38 of 2020) [2021] KEHC 9775 (KLR) (12 March 2021) (Ruling)**

Neutral citation: [2021] KEHC 9775 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
SUCCESSION CAUSE 38 OF 2020**

JN ONYIEGO, J

MARCH 12, 2021

IN THE MATTER OF THE ESTATE OF GEORGE BAGSHAW (DECEASED)

RULING

1. The deceased herein died testate on 22nd March, 2020 leaving behind a will dated 18th June, 2019 thus bequeathing his estate to various beneficiaries. A grant of probate of written will was issued on 10th November, 2020 to John Chatwin and Kamami K. Njoroge as joint executors and trustees to the estate.
2. On 10th February, 2021, the executors moved this court vide summons of even date seeking confirmation of the grant before the expiry of six months citing grounds that;
 - a. There are no dependants of the deceased within the meaning of Section 29 of the *Law of Succession Act*;
 - b. That no application under part III of the Act is pending and that, the estate is incurring huge expenses in running and maintaining the property erected on Subdivision No 21163 Section 1 Mainland which property is to be sold and proceeds shared.
3. I have considered the application herein, affidavit in support and counsel's oral submissions. Section 71 (3) of the Law of Succession does bestow authority upon the court to confirm a grant before the expiry of six months on condition that; firstly, there are no dependants under Section 29 of the Act that are of full age who have not consented. Secondly, it is convenient so to do in the circumstances of the case.
4. A perusal of the last will aforementioned reveals a huge list of beneficiaries. Although there is no revelation of any other dependant of the deceased who has not consented in accordance with Section 29 of the Act, the circumstances of this case will demand that the court awaits the expiry of six months. Where there are many beneficiaries listed in the will and by the very nature of the grant being a probate one where consents are not mandatory, I will find it convenient to confirm the grant after six months with all beneficiaries listed represented or present. I do not see any good reason to justify confirmation of the grant at this stage. Unlike where the petitioners are the sole beneficiaries of the estate, the rest of the grants should ordinarily wait for time to Lapse so as not to lock out potential objectors. For those reasons, application is rejected and the grant to wait for the expiry of six months



DATED SIGNED AND DELVE VIRTUALLY AT MOMBASA THIS 12TH DAY OF MARCH, 2021.

.....

J. N. ONYIEGO

JUDGE

