

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA

SUCCESSION CAUSE NO. 244 OF 2011

IN THE MATTER OF THE ESTATE OF YOHANA SHIONI OMBAKA (DECEASED)

RULING

1. While preparing the ruling in respect of application for confirmation of grant, dated 17th March 2021, which was placed before me for hearing, in terms of the minute of 19th March 2021, when the date was given, and I have established that no administrator has ever been appointed in this matter.

2. The cause herein was published in *Kenya Gazette* Issue No. 85 Vol. CXV of 7th June 2013, through Gazette Notice No. 7650. The petitioner was Charles Likuyu Ashoni. No grant of letters of administration intestate was processed in his name, after expiry of 30 days of the notice in the *Kenya Gazette*. No action was taken in the matter until 24th July 2015, when the court ordered the file to be closed.

3. Jason Makokha Ashiono then filed an application dated 11th May 2020. He disclosed that the petitioner, Charles Likuyu Ashoni, had died, and sought that the grant of letters of administration intestate be made to him. He never fixed that application for hearing, and the same was never heard and disposed of. Instead, he filed the summons for confirmation of grant dated asking for confirmation.

4. Clearly, the application dated 17th March 2021 is incompetent for it seeks confirmation of grant, yet no grant has ever been made in the cause. There is no grant capable of being confirmed. The application is made in abuse of court process, for it is premature. The same is hereby struck out.

5. To move the matter forward, let the application dated 11th May 2020 be fixed for hearing. At that hearing let all the families of the children of the deceased attend court, including the family of the late Indimuli, Kweyu, Charles Likuyu, the daughters of the late Mang'ate and the family of the late Suleiman Ompaka.

6. It is so ordered.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA 17TH DAY OF SEPTEMBER, 2021

W MUSYOKA

JUDGE