



REPUBLIC OF KENYA



In re Estate of Gaudencia Akumu Oikiko (Deceased) (Succession Cause 395 of 2015 & 253 of 2006 (Consolidated)) [2025] KEHC 16689 (KLR) (14 November 2025) (Ruling)

Neutral citation: [2025] KEHC 16689 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT MOMBASA

SUCCESSION CAUSE 395 OF 2015 & 253 OF 2006 (CONSOLIDATED)

G MUTAI, J

NOVEMBER 14, 2025

IN THE MATTER OF THE ESTATE OF GAUDENCIA AKUMU OIKIKO (DECEASED)

BETWEEN

FARAJI OKIKO ADMINISTRATOR

AND

NAGIB MOHAMED SHAMSAN 1ST INTERESTED PARTY

OGALI HOLDINGS LTD 2ND INTERESTED PARTY

BERLY LINDA OGALI 3RD INTERESTED PARTY

DUEKA HERZI 4TH INTERESTED PARTY

FARHIYA M FARAH 5TH INTERESTED PARTY

LAND REGISTRAR, KILIFI 6TH INTERESTED PARTY

RULING

1. Before the court is a summons dated 3rd September 2025. The same is supported by the affidavit of Mr Faraji Okiko, sworn on the same date. Vide the said application, the applicant seeks to have the court vary its judgment dated 11th October 2024 in Mombasa High Court Succession cause No 253 of 2006 to include orders that: -
 - a. That all the transfers arising from land parcel No Kilifi/Mtwapa/797 and all the subsequent subdivisions, namely land parcel Nos. Kilifi/Mtwapa/8263, Kilifi/Mtwapa/8264, Kilifi Mtwapa/8265, Kilifi /Mtwapa/8266, Kilifi/Mtwapa/8267, and Kilifi/ Mtwapa/8268, be cancelled and revoked; and
 - b. That the Land Registrar, Kilifi County, be ordered to revert land parcel no Kilifi/Mtwapa/797 back to the name of Gaudencia Akumu Oikiko (deceased).



2. The grounds upon which the application is grounded are that this court revoked the grant issued to one Nagib Mohamed Shamsan as it was obtained by fraud. The court also revoked the transfers of the suit land, that is to say, Title No. Kilifi/Mtwapa/797, in favour of the 1st, 2nd, and 3rd interested parties/respondents, and ordered that the same be reverted to the deceased.
3. When the order was presented to the Land Registrar for registration, it was discovered that the said title had unlawfully been closed and that new titles resulting from subdivision had been created. The subdivisions and resulting transfers were made notwithstanding the then-existing restriction, which was unlawfully removed, and the resulting titles were transferred to third parties.
4. The application, therefore, sought to have the orders sought granted.
5. Despite being served, the respondents/interested parties never appeared nor otherwise opposed the instant application. The application was therefore unopposed.
6. Is the application merited? What the applicant seeks in my view is to give effect to the decision of this court in a situation where the estate of the deceased had been intermeddled. Although issues regarding title and use of land are ordinarily within the jurisdiction of the Environment and Land Court, the same, in this case, has arisen in succession proceedings where it is clear that there was intermeddling with the estate of the deceased person.
7. In my view, the dominant issue in this case is intermeddling and the unlawful transfer of the suit property. That being the case, the Family Division of the High Court has the requisite jurisdiction.
8. Having concluded as above and noting that the respondents and the interested parties never responded to the instant application, and for that reason, the application is unopposed, I am satisfied that the same has merit. Consequently, the application is allowed as prayed.
9. Costs are at the discretion of the court. I award the applicant the costs of the application.
10. It is so ordered

DATED AND SIGNED THIS 14TH DAY OF NOVEMBER 2025. DELIVERED VIRTUALLY THROUGH MICROSOFT TEAMS.

GREGORY MUTAI

JUDGE

In the presence of:-

No appearance for the Applicant;

No appearance for the Respondents/Interested Parties; and

Arthur – Court Assistant.

