



THE REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
SUCCESSION CAUSE NO. E651 OF 2020
IN THE MATTER OF THE ESTATE OF JOSEPH MARTIN
SHIKUKU OYONDI (DECEASED)

EMMANUEL NOEL OSYLE SHIKUKU

PETITIONER/APPLICANT

VERSUS

THE CEO GULF AFRICAN BANK LTD 1ST

RESPONDENT

THE CEO STANDARD CHARTERD BANK LTD 2ND

RESPONDENT

THE CEO KENYA DEPOSITS INSURANCE

COOPERATION..... 3RD

RESPONDENT

BRIAN SITATI MURUNGA 4TH

RESPONDENT

ASHRAV IBRAHIM 5TH

RESPONDENT

ALLISON NTUBA 6TH

RESPONDENT

RULING

1. This ruling relates to the application dated **13th November, 2023** filed by the Applicant, Emmanuel Noel Osyle Shikuku, seeking for **ORDERS THAT:-**

1. **All the Respondents be ordered to transfer monies belonging to the estate of the late Joseph Shikuku Oyondi totalling to billions of shillings held by them to me as the Executor named in the will of the deceased and as confirmed by this court at Nairobi.**
2. **All the Respondents be held in contempt of this court.**
3. **This court orders the DCI to initiate criminal investigations and file criminal proceedings against the Respondents for fraud.**
4. **This honourable court considers giving express exparte orders due to the fact that there is evidence of fraud and disregard of the law based on fake letters of administration confirmed by the rules and procedures of the high court.**
5. **There is no constitutional and legal remedy that can override the legal procedures of this honourable court or over turn the fact that the succession cause was concluded and filed in accordance with the law.**
6. **The succession cause was concluded but the Respondents in collaboration with the office of the Deputy Registrars Family Division at Nairobi**

are fraudulently attempting to make it appear to be ongoing.

7. **The SMS notification is for a closed file being scheduled for mention when in succession matters, there is no mentioning.**
 8. **According to the law, the Will can only be revoked by the Testator.**
 9. **Respondents in collaboration with the office of the Deputy Registrars Family Division Nairobi are trying to make it appear as if the succession cause is ongoing using a closed file kept illegally open and active by the Deputy Registrars Family Division at Nairobi in a bid to fraudulently obtain money by false pretences.**
 10. **The above is evidence of abuse of power and office and the blatant disregard of the law by the Deputy Registrars Family Division at Nairobi and the Respondents.**
 11. **There be no costs in relation to this application.**
2. The application is based on the grounds thereof and supported by undated affidavit sworn by Emmanuel Noel Osyle Shikuku.
 3. He avers *inter alia* that he is the deceased's son and the Executor named in the Will. A grant of probate was issued to him on **23rd February, 2021** by Hon. Justice Aggrey Muchelule and later confirmed on **12th October, 2021** by Hon. Lady Justice Lydia Achode.

4. The succession matter - comprising Causes No. **E651/2020** and **E936/2021** - was fully concluded, consolidated and closed on **12th October, 2021** before Hon. Lady Justice Lydia Achode. The 1st to 3rd Respondents were duly served with the relevant documents and have retained them for over a year. Despite repeated requests, the 1st to 6th Respondents have failed to give any lawful, valid or credible reason for declining to release the rent arrears belonging to the deceased's estate. Instead, the Respondents, in collusion with officials from the Office of the Deputy Registrar, Family Division - Nairobi, have allegedly engaged in fraudulent activities, including generating fake court documents and attempting to revive a file that was already closed, all in an effort to defraud him. The Respondents have also been evasive, disrespectful and uncooperative, making it impossible for him to reach them. With no court order in place, the police cannot intervene, thus necessitating the issuance of the orders sought.
5. The application is not opposed and there are no written submissions filed.

ANALYSIS AND DETERMINATION

6. I have looked at the application before this court and all the related files as well as the orders by justices Muchelule, Achode (as they were) and Thande J.
7. Although the application is unopposed, it is the duty of the Court to nevertheless subject it to a merit evaluation in accord with the applicable laws and principles. Indeed, in

Gideon Sitelu Konchellah vs. Julius Lekakeny Ole Sunkuli & 2 others [2018] eKLR the Supreme Court of Kenya held that: “*...as a court of law, we have a duty in principle to look at what the application is about and what it seeks. It is not automatic that for any unopposed application, the Court will as a matter of course grant the sought orders. It behooves the Court to be satisfied that prima facie, with no objection, the application is meritorious and the prayers may be granted. The Court is under a duty to look at the application and without making any inferences on facts point out any points of law, such as any jurisdictional impediment, which might render the application a non-starter. We see no such jurisdictional issue in the application before us. Hence we have proceeded to consider the facts before us as against the jurisprudence for grant of stay orders set by this Court...*”

8. The application dated **13th November, 2023** was filed in the High Court of Bungoma in Bungoma **HCCCMISC No. E016 of 2023** which was transferred to this court vide email correspondence dated **24th November, 2024** which relied on the orders issued by Hon. Justice D. K. Kemei on **24th November, 2023**.
9. As part of the documents annexed to the instant application, there is a grant of letters of administration intestate issued on **10th September, 2021** to Stephen Ashiemi Shikuku and Martha Shikuku by Hon. Lady Justice M. Thande, grant of

probate with written will annexed issued on **23rd February, 2021** to Emmanuel Noel Osyle Shikuku by Hon. Justice A. O. Muchelule and certificate of confirmation of grant of probate with will issued to Emmanuel Noel Osyle Shikuku on **12th October, 2021** by Hon. Lady Justice L. A. Achode.

10. All these were issued by the High Court in Nairobi under **Nairobi Succession Cause No. E651 of 2020: In the Matter of the Estate of Joseph Martin Shikuku Oyondi (Deceased)**. These discrepancies were also highlighted by Gulf African Bank, the 1st Respondent herein, vide their correspondence to the Deputy Registrar Milimani Family Division, dated **2nd November, 2021**.
11. From the record of this court, there is a petition for letters of administration intestate whose supporting affidavit is dated **16th March, 2020**. The petition was done by Emmanuel Noel Osyle Shikuku and Sylvano Madanji Shikuku, who are the deceased's sons as per the Nairobi County Commissioner's letter dated **24th February, 2020**.
12. There is also a petition for probate with written Will dated **25th November, 2020** and the same filed by Emmanuel Noel Osyle Shikuku. It refers to a will dated **16th September, 1996**. This Will bequeathed **Plot Number 259** Kiminini Scheme in Bungoma District to Emmanuel Noel Osule Shikuku. It provided that all his other properties to be shared among his other sons with the exception of one, Michael Majimbo, who had already gotten his share. Emmanuel was appointed the sole Executor and administrator for the deceased's entire estate and in his

absence, Sylvano Madanji Shikuku to play this role. The authenticity of this Will was challenged before Hon. Lady Justice M. Thande and in her ruling delivered on **6th August, 2021**, she found it to be a forgery.

13. Vide orders granted in the aforementioned ruling on **6th August, 2021** it was ordered that the grant of probate of written Will issued to Emmanuel Noel Osyle Shikuku on **23rd February** be revoked; fresh grant of letters of administration of the estate of Joseph Martin Shikuku Oyondi was issued to Stephen Ashiemi Shikuku and Martha Shikuku; the Deputy Registrar was directed to furnish the Director of Public Prosecutions with a certified ruling together with purported Will with a view to considering initiating criminal proceedings against Emmanuel Noel Osyle Shikuku and this being a family matter, each party to bear own costs.
14. The proceedings and files in **Milimani HCSC NO. E936 of 2021: In the Matter of the Estate of Oyondi Joseph Martin Shikuku (Deceased)** and **Milimani High Court Family Miscellaneous Application No. E142 of 2021: Emmanuel Noel Osyle Shikuku versus Ashrav Ibrahim** have since been closed.
15. During the proceedings of **14th May, 2025** in **Milimani High Court Family Miscellaneous Application No. E139 of 2021: Emmanuel Noel Osyle Shikuku versus Brian Murunga Sitati**, Emmanuel informed this court that he wanted to withdraw the matter. His prayer was granted and the matter was marked as withdrawn on **14th May, 2025**.

16. The two remaining active files that relate to the deceased's estate are **High Court Succession Cause No. E651 of 2020: In the Matter of the Estate of Joseph Martin Shikuku Oyondi (Deceased)** which has a mention date of **26th November, 2025**; and **Milimani High Court Family Miscellaneous Application No. 25 of 2023: Emmanuel Noel Osyle Shikuku versus Standard Chartered Bank & 4 Others** wherein the application dated **13th November, 2023** was filed and the subject of the instant ruling.
17. On a careful perusal of the court's records and the decision by Thande J in particular the applicant herein, Emmanuel Noel Osyle Shikuku lacks the *locus* to file the application dated **13th November, 2023**. This is because the ruling delivered by Hon. Lady Justice M. Thande on **6th August, 2021** revoked his Executorship/ Administratorship over the deceased's estate and issued a fresh grant to Stephen Ashiemi Shikuku and Martha Shikuku.
18. The said orders issued on **6th August, 2021** have neither been set aside, stayed nor successfully appealed against. As such, Stephen Ashiemi Shikuku and Martha Shikuku remain the joint administrators of the Estate of Joseph Martin Shikuku Oyondi (Deceased); while Emmanuel Noel Osyle Shikuku remains a beneficiary of the deceased's estate.
19. In conclusion, I find that the application dated **13th November, 2023** lacks merit and make the following orders:-
 - a. **The application dated 13th November, 2023 and all other applications filed by Emmanuel Noel**

Osyle Shikuku, as Executor/Administrator of the Estate of Joseph Martin Shikuku Oyondi (Deceased), after 6th August, 2021 be and are hereby dismissed.

b. Stephen Ashiemi Shikuku and Martha Shikuku must apply for confirmation of grant over the deceased's estate, within 45 days from the date of this ruling.

c. Costs be in the cause.

**Dated signed and delivered via video link at
Nairobi this 20th day of November 2025.**

**H K CHEMITEI
JUDGE**