

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUSIA
SUCCESSION CAUSE NO. 49 OF 2003

IN THE MATTER OF THE ESTATE OF BENEAH ODIEMO
(DECEASED)

RULING

1. I am called upon to determine a summons for confirmation of grant, dated 22nd July 2024. It seeks reversion, of the subtitles created out of Bukhayo/Mundika/600, to the original title, in the name of the deceased.
2. The original grant had been confirmed, on 4th November 2008, and a certificate of confirmation of grant had been issued. Transmission happened, based on the orders of 4th November 2008. Then that grant was revoked in 2015, taking away with it the confirmation orders of 4th November 2008, and its certificate. A fresh distribution was ordered and a fresh certificate of confirmation of grant issued, on 30th June 2022. It is against that background that the cancelation of the transmission, based on the confirmation orders of 4th November 2008, is sought, so that the property is reverted to Bukhayo/Mundika/600, to facilitate a fresh transmission.
3. There is a response to the application, by Erick Onyango, by an affidavit he swore on 11th July 2025. It is averred that that transmission happened based on the confirmation orders of 2008. New titles were created. Some were registered in the names of third parties. Based on that, it is argued that the application would be an abuse of the court process.
4. The record reflects that a revocation application was filed in 2015, by Moses Juma Ouma. That application was heard, and allowed on 3rd June 2020. The grant, in place, confirmed on

4th November 2008, was revoked, and new administrators were appointed. The new administrators were given 30 days to apply for distribution of the estate afresh. An application for confirmation of grant was filed, on 15th March 2021, and protests were filed. That application was heard, by Karanjah J, and was allowed, on 15th June 2022. The fresh distribution cannot be carried out until the estate is reverted to its original state, as Bukhayo/Mundika/600, in the name of the deceased. The orders of 15th June 2022 were not made in vain; they have to be complied with.

5. The application, dated 22nd July 2024, is merited and I hereby allow it, as prayed. The matter shall be mentioned on 16th December 2025, to monitor progress on the fresh transmission. Orders accordingly.

**DELIVERED, VIA EMAIL, DATED, AND SIGNED IN CHAMBERS,
AT BUSIA, THIS 10TH DAY OF NOVEMBER 2025.**

**W MUSYOKA
JUDGE**

Mr. Arthur Etyang, Court Assistant.

Mr. Moses Juma, the applicant, in person.

Advocates

Mr. Okeyo, instructed by Okeyo Ochiel & Company, Advocates for the administrator.

Mr. Nyegenye, instructed by Calistus & Company, Advocates for the objector.