



Ranford Holdings Company Limited v Kana & another; Chief Land Registrar & 2 others (Intended Interested Party) (Environment and Land Case E391 of 2025) [2025] KEELC 7944 (KLR) (18 November 2025) (Ruling)

Neutral citation: [2025] KEELC 7944 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E391 OF 2025
CG MBOGO, J
NOVEMBER 18, 2025**

BETWEEN

RANFORD HOLDINGS COMPANY LIMITED PLAINTIFF

AND

LALILT BABA KANA 1ST DEFENDANT

MANJULA LALIT KANA 2ND DEFENDANT

AND

CHIEF LAND REGISTRAR INTENDED INTERESTED PARTY

HON. ATTORNEY GENERAL INTENDED INTERESTED PARTY

PARESH LALIT KANA INTENDED INTERESTED PARTY

RULING

1. Before this court is the notice of motion dated 30th October, 2025 filed by the 3rd intended interested party/applicant and the notice of preliminary objection dated 4th November 2025 filed by the plaintiff/respondent respectively.
2. The notice of motion dated 30th October, 2025 is expressed to be brought under Sections 1A, 1B, 3A and 63 (e) of the *Civil Procedure Act* and Order 1 Rule 10(2) and Order 2 Rule 15 (1)(b)(c) and (d) of the Civil Procedure Rules seeking the following orders:
 1. Spent.
 2. That the applicant herein be joined in these proceedings as either a defendant and/or interested party and this application be heard on priority over any other application and an order should



be issued for it to be served immediately, a response be filed and the same be heard on 5th November, 2025.

3. That upon being joined into these proceedings this court be pleased to strike out the main suit herein together with any pending applications filed by the plaintiff.
 4. That the plaintiff be ordered to remove the goons they brought into the property on 30th October, 2025 and the OCS Parklands Police Station to assist in enforcing the orders of this court in line of the decree given in ELC Case Number 574 of 2017 on 13th February, 2025.
 5. That the costs of this application together with the main suit be awarded to the applicant.
3. The application is premised on the grounds on its face. The application is further supported by the affidavit of Paresh Lalit Kana sworn on even date. Paresh Lalit Kana, herein referred to as Paresh deposed that prior to his mother's death, a suit had been concluded in relation to the property registered in her name and his father's name being LR. No. 1870/1/451 and 1870/1/452 in ELC 574 of 2017. He deposed that a decree was issued and after conclusion of the said matter, they have been in quiet and peaceful occupation of the suit properties.
 4. Paresh deposed that the plaintiff/respondent has continuously hired goons to evict them from the premises, and it is apparent that the plaintiff/respondent is abusing this court's orders to harass and intimidate them. Further, that his father died on 4th March, 2021 and hence no suit can be entertained against his parents. He deposed that the actions of the plaintiff/respondent have caused them a lot of pain and unnecessary mental anguish, and that he believes that the rule of law should prevail at all times.
 5. Noor Haji Ali, the director of the plaintiff/respondent filed his replying affidavit sworn on 4th November, 2025. He deposed that in July 2025, some people went to his property known as Plot No. 1870/1/620 (formerly 1870/1/451) and LR. No. 1870/1/621 (formerly 1870/1/452) and introduced themselves as the defendants, and that they were in the company of goons. He deposed that he moved the court to prohibit the defendants from illegally dispossessing him from his properties, and that he obtained orders of status quo from the court. The plaintiff/respondent further deposed that despite the said orders, they continued going to the suit property which prompted him to report the matter to the DCI. He deposed that the death certificates of the defendants are procured from a jurisdiction that is outside of this country's jurisdiction, and that if at all they are deceased, the 3rd intended interested party requires grant of letters of administration which has not been produced. Further, that Paresh has failed to provide a nexus between him and the defendants.
 6. Paresh filed a further affidavit in response thereto sworn on 4th November, 2025. He deposed that the titles to the suit properties were renewed in the year 2004, and that in ELC Number 574 of 2017 the same titles were used by Hafaya Construction Limited. While further deposing to allegations concerning the plaintiff/respondent in this matter and other matters, Paresh urged the court to strike out the plaintiff's suit with costs.
 7. The plaintiff/respondent filed the notice of preliminary objection against the defendant's/respondent's application dated 30th October, 2025 on the grounds that: -
 - i. The applicant has no locus standi to bring this application as a legal representative.
 - ii. The applicants' application is totally defective, bad in law, an abuse of the court process and should be dismissed with costs to the respondent.



8. On 14th November, 2025 this court directed the parties to file their written submissions on the notice of motion and the preliminary objection. The plaintiff/respondent filed its written submissions dated 14th November, 2025 where it raised two issues for determination as follows: -
 - a. Whether the 3rd intended interested party has requisite locus standi.
 - b. Whether the present suit should be struck out on account of the defendants being allegedly deceased.
9. On the first issue, the plaintiff/respondent submitted that based on the reading of the meaning of *ad colligenda bona defuncti* based on the decisions of the court in the cases of *Abdallah v Realty Brokers Limited & another* (Environment & Land Case E048 of 2023) [2024] KEELC 7046 (KLR), and *Elijah Nderitu Gachagua v Francis Gakuu Gachaga & 2 others* [2019] eKLR, the 3rd intended interested party/applicant has no locus before this court.
10. On the second issue, the plaintiff/respondent deposed that a stranger has appeared before this court and stated that the defendants are deceased. That if indeed the defendants are deceased, such documentation proving death must be notarized, and such notarization has not been done. The plaintiff/respondent submitted that the affidavits and exhibits relied upon by the 3rd intended interested party/applicant are inadmissible for failure to comply with the provisions of the Hague Convention Abolishing the requirement of Legalization for Foreign Documents of 1961 (commonly referred to as the Apostille Convention). To further buttress on this issue, they relied on the case of *Prism Life Sciences Limited v Galaxy Pharmaceuticals Limited & another* (Commercial Case E065 of 2025) [2025] KEHC 10038 (KLR) (Commercial & Admiralty) (10 July 2025).
11. The plaintiff/respondent submitted that in the event the defendants are deceased, the same was not known to the plaintiff at the time of filing this suit, and that it would be highly prejudicial if the suit is struck out on the basis of unverified allegations which are unknown to them. That should it be established that the defendants are deceased, they should be afforded an opportunity to substitute them with the legal representative of their respective estates.
12. The 3rd intended interested party/applicant did not file his written submissions. Be that as it may, I have carefully considered the application, the preliminary objection, the replies thereof and the written submissions filed by the plaintiff/respondent. The court will address the issues for determination as raised by the plaintiff/respondent in its written submissions.
13. On whether the 3rd intended interested party/applicant has the locus to file the instant application, I am persuaded to rely on the court's observation in the case of *Julian Adoyo Ongunga & another v Francis Kiberenge Bondeva* (Suing as the Administrator of the Estate of Fanuel Evans Amudavi, Deceased) [2016] KEHC 4186 (KLR) as follows: -

“ 16. In this discussion, I will deal with two forms which are material to the matter before me. One form is the one commonly known as Limited Grant of Letters of Administration *Ad Litem* which is provided for under Form 14 of the Fifth Schedule of the Act and deals with suits. The said provision states as follows:-

'when it is necessary that the representation of a deceased person be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said



suit, or in any other cause or suit which may be commenced in the same or in any other court between the parties, or any other parties, touching the matters at issue in the cause or suit, and until a final decree shall be made therein, and carried into complete execution'.

17. From the foregone, it is clear that a Limited Grant of Letters of Administration Ad Litem is usually used when the estate of a deceased person is required to be represented in court proceedings. (See the case of *Greenway vs. Mc Kay* (1911) 12 CLR 310).

18. The other form is provided for under Section 67 of the Act and Rule 36 of the Probate and Administration Rules and is commonly known as the Limited Grant of Letters of Administration Ad Colligenda Bona. The said provisions state as follows:

'67

(1) No grant of representation, other than a limited grant for collection and preservation of assests, shall be made until there has been published notice of the application for such grant, inviting objections thereto to be made known to the court within a specified period of not less than thirty days from the date of publication, and the period so specified has expired.

Rule 36 (1) Where, owing to special circumstances the urgency of the matter is so great that it would not be possible for the court to make a full grant of representation to the person who would by law be entitled thereto in sufficient time to meet the necessities of the case, any person may apply to the court for the making of grant of administration ad colligenda bona defuncti of the estate of the deceased.

(2) every such grant shall be in the Form 47 and be expressly limited for the purpose only of collecting and getting in and receiving the estate and doing such acts as may be necessary for the preservation of the estate and until a further grant is made.

19. On the other hand a Limited Grant of Letters of Administration Ad Colligenda Bona is usually used in an emergency for purposes of dealing with the property of a deceased person which is subject to waste or danger and where there is no sufficient time to obtain a full grant. (See the case of *Re Cohen* (1975) VR 187).

20. The Appellants' argument is therefore based on the foregone distinction. Turning to the grant in this matter, the Respondent obtained and produced in evidence a Limited Grant of Letters of Administration Ad Colligenda Bona



as the basis of his locus stand in the suit. I have carefully looked at the wording of the said grant which partly states as follows:-

'....but limited to the purpose only of collecting and getting in and receiving the estate and doing such things as may be necessary for the preservation of the same and until further representation be granted

21. Submitting on the purpose and intent of a Limited Grant of Letters of Administration Ad Colligenda Bona, the Respondent had the following to say:-

'...Even though a grant of letters of administration ad colligenda bona is 'generally' meant for collecting and getting in and receiving the estate and doing such things as may be necessary for the preservation of the estate of the deceased, it is not fatally defective for the respondent to have used it to file a suit. The suit was for compensation for damages and the award out of the suit, which if any would then form part of the estate of the deceased. This amounts to collecting the estate of the deceased.'

22. Our courts have also dealt with the above issue. In the case of Morjarila vs. Abdallah (supra) the Court of Appeal expressed itself in the fifth and sixth holdings as follows:-

'5. The purpose of a grant of letters of administration ad colligenda bona is to collect the property of the deceased person where it is of a perishable or precarious nature, and where regular probate and administration cannot be granted at once.

6. The appointment of a person as an administrator ad colligenda bona in respect of a deceased person cannot include the right to take the place of the deceased for the purpose of instituting an action or appeal, especially where there is specific provision for that purpose in paragraph 14 of the Fifth Schedule to the [*Law of Succession Act*](#).'

23. The above is the prevailing general position in law. However there are instances where such a Limited Grant of Letters of Administration Ad Colligenda Bona is tailored in a manner as to allow for the institution of an action or where the record expressly provides for such. In such cases the focus will no doubt shift to the contents and wording of the grant or the record as opposed to the type of the grant. That scenario arose in the Court of Appeal case of Peter Owade Ogwang v. Jared Obiero Ouya (2014)eKLR where upon the demise of a party before the High Court the party which came in to represent the deceased party obtained a limited grant ad colligenda bona. The High Court found that the party had no locus standi and as such that party inter alia lost the matter. On appeal, the Court of Appeal on 19/09/2014 at Kisumu readily agreed with the High Court's position on the essence and purport of a limited grant ad colligenda bona but went further into the record and found that the party had further moved the High Court by way of a Chamber Summons which was



allowed as prayed. The Summons moved the superior Court for the following order:

'1. That the second plaintiff herein.....having died but since the cause of action survives him he be and is hereby substituted with the first Plaintiff, his legal representative who has obtained Letters of Administration the First Plaintiff allowed to prosecute the suit on his own behalf and on behalf of the second Plaintiff.'

24. The Court of Appeal then went further and stated as follows:

'The chamber summons was, on 16th November, 1998 allowed as prayed by Mbaluto, J. (as he then was). The record does not show that that order was ever set aside. It therefore remained a valid order of the court and could not be revisited by Musinga, J, who, at that time had concurrent jurisdiction with Mbaluto, J. In our view. notwithstanding that the appellant was armed with only a grant of letters of administration ad colligenda bona and therefore did not invoke paragraph 14 of the Fifth Schedule of the Law of Succession Act, the order of Mbaluto, J. allowing the appellant to represent the estate of his deceased father, the 2nd plaintiff, in effect converted the grant of letters of administration ad colligenda bona to a grant limited to the prosecution of the case before the High Court especially as the respondent never challenged it in that court.'

(emphasis added).

25. The Court of Appeal, differently constituted, in the case of Morjarila vs. Abdallah (supra) in similar circumstances held as follows:

'7. Notwithstanding that the grant of letters of administration ad colligenda bona was not a form of grant appropriate for this case and that it did not follow Form 47 in the First Schedule to the Law of Succession Act as provided by rule 36(2) of the Probate and Administration Rules, the grant was specifically limited to 'the purpose only' of representing the appellant in this appeal and those words in themselves constituted a valid grant under rule 14 enabling the appellant's son and his step-mother to represent the appellant in this appeal.' (emphasis added)."

14. It is not disputed that the 3rd intended interested party took out limited grant in relation to the estate of the 2nd defendant. While looking at the distinction of the purposes of limited grants for specific purposes i.e. limited grant ad corrigenda vis a vis limited grant ad litem, it is necessary to factor in the wording of the said grant to assess whether the same is applicable in the circumstance. The 3rd intended interested party deposed that the defendant herein, his mother died on 27th December, 2024. He attached the certificate of death issued by the State of Texas. At this stage, it is immaterial whether the certificate of death can be admissible as evidence before this court for the reason that the High Court in its orders issued on 26th October, 2025 provided as follows:-

"1. That the application is allowed.



2. That the limited letters ad colligenda is for 90 days only. The applicant to apply for full grant.
 3. That..."
15. While I note that limited letters ad colligenda are issued for purposes of preserving of the estate of a deceased which is in danger of being wasted or otherwise, the orders issued by the court are not clear whether the same applied to representation of the deceased in this suit. The 90 days provided in the court order has not defined the use of the ad colligenda. The 3rd intended interested party applicant did not also find it necessary to provide the court with the motion dated 23rd October, 2025 filed before the High Court to enable this court better understand the context. For this reason, I would adopt a wider interpretation of this order, to infer that the 3rd intended interested party/applicant has the necessary locus standi to file the instant application pending the application of the full grant and defend the estate of the deceased in this application. Having said that, the current use of the ad colligenda is not fatal to this case, and as such, I find the 3rd intended interested party/applicant not a stranger to these proceedings.
16. On whether the suit ought to be struck out, the 3rd intended interested party/applicant argued that a suit that has been filed against deceased persons is a nullity. There being orders of limited letters ad colligenda issued by the court on 26th October, 2025, it is plainly obvious that the same is proof that the defendants are deceased. A suit filed against a deceased person cannot survive more so where it was instituted after the death of the said persons. See the cases of Japhet Nzila Muangi versus Hamisi Juma Malee [2022] eKLR, and Geeta Bharat Shah & 4 Others versus Omar Said Mwatayari & Another [2009] eKLR.
17. From the above, the notice of preliminary objection dated 4th November, 2025 lacks merit and it is hereby dismissed. The notice of motion dated 30th October, 2025 is hereby allowed in the following terms:-
1. The plaint dated 6th August, 2025 is hereby struck out with costs.
 2. The orders of status quo issued on 19th August, 2025 are hereby vacated.
 3. The costs of this application is assessed at Kshs.75,000/- to be borne by the plaintiff.
- Orders accordingly.

DATED, SIGNED & DELIVERED VIRTUALLY THIS 18TH DAY OF NOVEMBER, 2025.

HON. MBOGO C.G.

JUDGE

18/11/2025.

In the presence of:

Mr. Benson Agunga - Court assistant

Mr. Ndege acting alongside Mr. Michael Were for the Plaintiff/Respondent

Mr. J. Were for the 3rd Intended Interested Party/Applicant

