



REPUBLIC OF KENYA



Fazal v Administrators of the Estate of Abdulla Fazal (Succession Cause 368 of 1975) [2025] KEHC 17741 (KLR) (Family) (24 November 2025) (Ruling)

Neutral citation: [2025] KEHC 17741 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 368 OF 1975
CJ KENDAGOR, J
NOVEMBER 24, 2025**

BETWEEN

MOIZ FAZAL APPLICANT

AND

THE ADMINISTRATORS OF THE ESTATE OF ABDULLA FAZAL RESPONDENT

RULING

1. This succession cause relates to late Abdulla Fazal who died on 4th July, 1971. He had a Written Will that directed that all movable and immovable properties be distributed equally among his four sons – Mohamed, Hassanali, Abdulsultan and Amimah.
2. Grant of letters testate was issued on 13th April, 1976 to late Mohamed Abdulla Fazal, his son and executor of the Will. Late Mohamed was later substituted with Gulshan Mohamed Abdulla Fazal and Karim Mohamed Abdulla Fazal and the new Grant confirmed on 2nd October, 1997.
3. This Grant was later revoked on 25th November, 2019 following an application dated 1st November, 2019 filed by late Amina Hassanali Abdulla Fazal.
4. The present application that is the subject of this Ruling is dated 17th June, 2025 filed by Moiz Fazal. The Applicant prays that the Grant in the estate be revoked and that orders be issued regarding the management of the deceased's estate by the respondents.
5. Karim Fazal opposed the application via a replying affidavit dated 21st November, 2025. Due to the nature of the issues before it for consideration, the Court exercised discretion in admitting it; it was filed out of time.



6. The Applicant is the son of late Amina (who is the widow of late Hassanali, son of late Fazal, to whom this estate relates and the Applicant in the application that led to the revocation of the grant).
7. The Respondent, on the other hand, was a co-administrator in the revoked grant and is a son of Mohamad Fazal, who was the named executor and sole administrator in the first grant.
8. The Applicant's case is that the Respondents have misappropriated funds of the estate and have refused to account for the same. The Applicant accused the Respondents and some of the beneficiaries of greatly benefiting in the estate to the exclusion of the Applicant and other beneficiaries.
9. The Respondent, on the other hand, accuses the Applicant of distortion and non-disclosure of material facts. According to the Respondent, the accounts presented and acknowledged by the Applicant are a true reflection of the estate management, and the Applicant's assertions are unsubstantiated.
10. From previous pleadings on record, the estate is comprised of the following properties; Changamwe/ Miritini kwa Jomvu Plot No. 125/V/MN, Mombasa, UASO Nyarobe Waterfront Limited L.R No. 209/4360/50, Nairobi and funds stated to have been proceeds from the sale of L.R No. 209/3465/9.
11. The grandchildren are the ones now embroiled in litigation asserting their claim to the inheritance they believe is rightfully theirs, derived from the estates of their deceased parents.
12. Currently, there is no administrator appointed post the revoked grant.
13. The primary issue causing the prolonged succession case is that the estate has not been distributed. It is not in the interest of justice for the succession case to remain unresolved in Court for such a lengthy period without a final distribution of the estate.
14. The prayer to revoke the Grant cannot be upheld because there is no grant in place to begin with. The prayer for the status quo regarding the payment of Kshs.40,000/= per month cannot be upheld as the orders were in favour of the late Amina only, who is now deceased. Additionally, the accounts called for and provided have not addressed the actual issues in dispute, which pertain to distribution.
15. To advance this cause towards fulfilling the objectives of a succession matter, parties need to identify the beneficiaries, agree on estate administration, determine what constitutes the estate and the status thereof, and finally, agree on distribution.
16. This is a 1975 Succession Cause. Section 47 of the *Law of Succession Act* and Rule 73 of the Probate and Administration Rules grant the Court powers to issue a wide range of necessary orders to manage and safeguard an estate. The Court has discretion to appoint the Public Trustee when beneficiaries are unable to reach a consensus on who should serve as the estate administrator. This is done to avert potential waste or mismanagement of the estate, which can occur when there is no designated administrator to collect, oversee, and manage the estate's assets. Furthermore, the Court may appoint a Public Trustee when seeking a neutral and impartial administrator, especially in cases where beneficiaries have demonstrated their inability to agree and have shown persistent or conflicting interests in the estate.
17. I proceed to strike out the present application with no order as to costs.
18. I consider it appropriate to give the parties an opportunity to agree on the issues raised in paragraph 15 above before the Court decides on the appointment of the administrator/s.
19. The matter to be listed in a month for the parties to confirm whether they have reached an agreement on the appointment of administrator(s) and to take directions as may be appropriate.



20. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS
ONLINE PLATFORM ON THIS 24TH DAY OF NOVEMBER, 2025.**

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Ms. Kalsi, Advocate for the Applicant

Mr. Kibet, Advocate for the Respondent

