



REPUBLIC OF KENYA



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**In re Estate of Kombo Juma Mzee (Deceased) (Succession Cause  
E074 of 2022) [2025] KEHC 18231 (KLR) (4 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18231 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
SUCCESSION CAUSE E074 OF 2022**

**G MUTAI, J**

**DECEMBER 4, 2025**

**IN THE MATTER OF THE ESTATE OF KOMBO JUMAA MZEE (DECEASED)**

**BETWEEN**

**MOHAMED KOMBO JUMA ..... 1<sup>ST</sup> APPLICANT  
HASSAN KOMBO JUMA ..... 2<sup>ND</sup> APPLICANT  
JUMA KOMBO JUMA ..... 3<sup>RD</sup> APPLICANT  
FATUMA KOMBO JUMA ..... 4<sup>TH</sup> APPLICANT**

**AND**

**KHIFA ABUBAKAR ABDALLA ..... PROTESTOR**

**RULING**

1. Kombo Juma Mzee died on 10<sup>th</sup> January 2022 at the age of 63 years old. At the time of his death, he was a businessman. He died at Mikindani, in Mombasa County, within the Republic of Kenya.
2. According to the letter written by Ima Matano Mzee, the chief of Mikindani Location, the deceased had one wife, Khifa Abubakar Abdalla, with whom he had no children and three sons, Hassan Kombo Juma, Mohamed Kombo Juma, and Juma Kombo Juma, and a daughter, Fatuma Kombo Juma, all from a previous marriage.
3. Hassan Kombo Juma and Mohamed Kombo Juma file a petition for letters of administration intestate of the estate of Kombo Jumaa Mzee (deceased) on 12<sup>th</sup> September 2022, in their capacity as the sons of the deceased. They listed all the dependants identified in the chief's letter and stated that the deceased had properties worth Kes.35,000,000/-. The particulars of the said properties were given.



4. The petition was gazetted on 2<sup>nd</sup> December 2022 vide Gazette Notice No 14899 dated 3rd October 2022. Upon the expiration of the requisite time, the grant was issued to the petitioners on 16<sup>th</sup> January 2023.
5. Vide Chamber Summons application dated 4<sup>th</sup> April 2025, Ms Khifa Abubakar Abdalla sought leave to file an objection to the making of the grant out of time. The application was opposed. This Court, upon considering the application on the merits, in a ruling delivered on 25th July 2025, dismissed the application.

The Court stated that: -

“ 16 Since the intended objection is meant to be brought after the grant has been issued, the application, in essence, seeks to achieve something that the Rules do not permit. The application is doomed ab initio. For that reason, the application is without merit.”

6. The Court further stated that: -

“ 17. I must point out that Khifa is not without merit. Since there is summons for confirmation of the grant, she could file a protest under Rule 40(6) of the Probate and Administration Rules, 1980. On the other hand, if she is still aggrieved by the making of the grant, she may file summons for revocation or annulment of the grant under Section 76 of the Law of Succession Act relying on the grounds stated therein.”

7. Prior to the filing of the said chamber summons, the petitioners had filed a chamber summons dated 17<sup>th</sup> March 2025 seeking to have the grant issued on 16<sup>th</sup> January 2023 confirmed. The said Summons proposed that the estate of the deceased be distributed in accordance with Islamic Sharia.
8. The widow of the deceased objected to the confirmation of the grant vide the affidavit of protest, sworn on 18<sup>th</sup> October 2025. The protestor stated that she had been ejected from the matrimonial home, was not included in discussions regarding the estate, and that, as the widow of the deceased, she was entitled to the entire estate. The protestor also objected to the fact that the mode of distribution had not been agreed upon and that no valuation had been done.
9. The protestor therefore sought to be appointed as a co-administrator, for the sole surviving administrator to be compelled to render a full account and for costs to be provided for. She prayed that the Summons for Confirmation of grant be declined.
10. The protest was opposed by Mr Mohamed Kombo Juma, who deposed to an affidavit sworn on 28th October 2025, in which he stated that they had consistently recognized the widow as the spouse of their deceased father and that she was included as a beneficiary. Regarding Title No. Mombasa/MN/Block/450, he stated that it was not part of the estate because the ownership dispute was pending determination by the Environment & Land Court.
11. Mr Mohamed denied that the estate was being mismanaged. He stated that the protestor had frustrated the process of obtaining accounts despite this Court's orders issued on 6<sup>th</sup> November 2023. He contended that the protestor was in control of Title No Mombasa/MN/Block1/445, which she had declined to account for.
12. The protest was heard on 10<sup>th</sup> November 2025. The submissions made during the hearing mirror those I have stated in summary above. I need not rehash them here.



13. Mr Mutubia, the learned counsel for the protestor, accused the sole surviving administrator of having instigated criminal proceedings against his client and of not providing a distribution formula in the Summons, beyond stating that the estate would devolve to the beneficiaries in accordance with Islamic law. He submitted that the petitioners should have gone to the Kadhi's Court first to identify the shares of each beneficiary, and thus by filing the summons for confirmation of the grant first, they had put the Cart before the horse.
14. Mr Kamanzi, learned counsel for the sole administrator, in his response, stated that the protestor had been recognized in the proceedings as being the widow of the deceased. He submitted that the charges against the protestor were commenced by the Office of the Directorate of Public Prosecution after investigations were carried out. He submitted that Khifa previously declined to cooperate with the petitioner. Mr. Kamanzi urged that the protestor is entitled to a fixed share of the estate under Islamic law, namely a 1/8 share. He accused the protestor of trying to frustrate the distribution of the estate. He prayed that the protest be dismissed and that the grant be confirmed.
15. I have considered the summons for confirmation of the grant and the protest and taken into account the submissions of the parties. The issues in my view are:-
  1. Whether the protest has merit;
  2. Whether the grant should be confirmed;
  3. Who should provide statements of account; and
  4. Whether the protestor should be appointed as co-administrator.
16. Hassan Kombo Juma, the co-administrator, is deceased. Mr. Mohamed Kombo Juma is now the sole administrator. The protestor wishes to be appointed as either a sole administrator or a joint administrator with a person other than Mohamed. The Court notes that she did not file a summons for the revocation of the grant.
17. The duty of the Probate & Administration Court is to distribute the estate and not to determine ownership. In the case of *re Estate of Julius Ndubi Javan* [2018]eKLR, it was held that:-

“... the primary duty of the probate Court is to distribute the estate of the deceased to the rightful beneficiaries. As of necessity, the estate property must be identified...”
18. I note that the parties in this cause rightly excluded Title No Mombasa/Block1/450 and that the determination of ownership of the same is pending at the Environment & Land Court. Since the other properties are not disputed, the same can be distributed.
19. The protestor is apprehensive that the estate isn't well-managed and that it may be wasted. The administrator has a duty to account to allay any fears that the protestor has. In the case of *In re Estate of David Kyuli Kaindi (Deceased)* [2019] KEHC 7550 (KLR), it was held that: -

“...The obligation to render accounts would require the personal representative to approach the matter with the three broad duties in mind. The nature of the account to be rendered should depend on when the account is sought to be rendered. Where it is sought before confirmation of grant, the account should cover collection and preservation of the estate and payment of debts and settlement of liabilities of the estate. The personal representative must give an account of the assets and liabilities that he has ascertained, and the assets that he has collected, gotten in, recovered or gathered and the titles that he has perfected, and the steps taken to preserve the estate. He should also state the debts and liabilities that he



has paid or settled before moving the court for confirmation of the grant, and if he has not yet settled the debts, state how he proposes to have them settled. The account at this stage should also state the assets that generate income, stating how much has been collected and how it has been utilized. Where the account is being rendered after confirmation of grant, and where no previous account had been given, the personal representative is obliged to cover what I have stated above, and in addition indicate whether he has distributed any of the assets set out in the will or in the certificate of confirmation of grant, in case of intestacy. If not, he must state what he has done, or is in the process of doing, in the effort to complete the distribution...”

20. In my view, it would be prudent to have the administrator provide the statement of accounts.
21. Section 2(3) of the [Law of Succession Act](#) provides that: -
  - “subject to subsection (4), the provision of this Act shall not apply to testamentary or intestate succession to the estate of any person who at the time of his death is a Muslim, to the intent that in lieu of such provisions the devolution of the estate of any such person shall be governed by Muslim law.”
22. The deceased was a Muslim. It therefore follows that the devolution of his estate is governed by Islamic law. I note that Islamic law has provisions on how the estates of deceased Muslims ought to be shared. That is, in fact, what has been proposed in the summons for confirmation of the grant.
23. In my view, the issue in this matter is personality clashes and differences. The protestor feels that, as a widow, she should play a greater role in administering the estate. What should the Court do in such circumstances?
24. Since the issue of appointment of the protestor as a co-administrator has previously been raised and was not allowed, I do not think that this Court should change course and appoint her at this point. There are, however, concerns that ought to be addressed regarding provisions of the account, valuation of the estate, and confirmation of the grant.
25. These concerns can be addressed by way of appropriate orders, which I issue below.
26. I therefore order that: -
  1. The administrator provides a statement of account of the estate from the date of his appointment to date, and an inventory of its assets, within 30 days of the date hereof;
  2. The estate of the deceased shall be valued by the government valuer within 60 days of the date hereof and the valuation report filed; and
  3. I refer the matter to the Kadhi’s Court, to Hon Abdiaziz Maalim Mohamed, SPK, to identify the shares of all the beneficiaries under Islamic Law.
27. I order that the summons for confirmation of Grant dated 17<sup>th</sup> March 2025 be heard on 4<sup>th</sup> March 2026. All the beneficiaries are to be present.
28. Since this is a succession dispute between close family members, parties shall bear their own costs.
29. It is so ordered

**DATED AND SIGNED THIS 4<sup>TH</sup> DAY OF DECEMBER 2025. DELIVERED VIRTUALLY THROUGH MICROSOFT TEAMS.**



**GREGORY MUTAI**

**JUDGE**

In the presence of:-

Mr Mutubia, for the Protestor;

Mr Kamanzi, for the Administrator; and

Norah - Court Assistant.

