

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUSIA
SUCCESSION CAUSE NO. E001 OF 2024

IN THE MATTER OF THE ESTATE OF THE LATE PETER OUMA
OBWOGO (DECEASED)

RULING

1. On 8th April 2025, I confirmed the grant herein, after I had heard from all the individuals listed as beneficiaries. A certificate of confirmation of grant was duly issued, thereafter, dated 30th April 2025.
2. On 19th June 2025, a summons for revocation of grant, dated 15th June 2025, was lodged herein, seeking to have the grant herein revoked, on grounds of non-disclosure of the applicant, Winnie Anyango Otieno, as a co-widow, and of certain assets.
3. The administratrices, Elizabeth Pamela Anyango and Rosemary Nabwire Ouma, have responded to the application. They acknowledge the applicant as a co-widow, but assert that she chose not to cooperate with them, in initiating a joint succession process, arguing that she was not interested in the assets that they were interested in, hence they decided to go and seek representation, excluding her and the assets that she was laying claim to.
4. The issue appears to be fairly straightforward. The applicant and the administratrices appear to be in agreement, that they are all widows of the deceased. It would appear to me there was a misunderstanding, between or amongst them, on how they were to proceed with administration of the estate of their late husband, hence 1 section of the family proceeded with the process herein, to the exclusion of the other, and a section of the assets.

5. An individual deceased person has only 1 estate. That 1 may have many assets, and many persons may be beneficially interested in shares in it. However, it would remain 1 estate, which ought to be handled in 1 administration. The only time 2 or more administrations are permitted, is where a person dies both testate and intestate, so that the part of the estate subject to the will is handled separately, from the assets subject to intestacy. It may also apply where part of the estate is in Kenya, and the other outside the jurisdiction of Kenya.
6. That being the case, it would not be acceptable and legally permissible, for the estate of the deceased herein to be handled in 2 or more separate administrations, where some assets are handled in 1 administration, and the other assets in another or others, ostensibly as the beneficiaries are not able to work together, to achieve 1 administration. If family members are unable to agree on a single administration, the remedy does not lie in splitting the administration of the estate into 2 or more administrations, rather the administration or representation can be committed to outsiders, that is to say individuals or entities outside of the family, such as the Public Trustee or a trust corporation.
7. The situation has not gotten to that though, for there is unanimity that the deceased had 3 wives or 3 houses, and that some assets were left out. It would also appear that there was either a misunderstanding between the parties, or some level of lack of cooperation from one or both sides.
8. In view of that, I do not think that the best option would be to revoke the grant herein. The way out should be to bring in the applicant into the administration, as a co-administratrix, and to have the grant amended or rectified for that purpose. In the same spirit, there would be no need to set aside the distribution ordered on 8th April 2025. Instead, the assets

left out should be brought into the estate. The 3 widows would then attempt to agree on distribution, after which they should move the court for the distribution of 8th April 2025 to be reviewed, to accommodate the new assets and beneficiaries. In the absence of an agreement, either side could move the court for review of the distribution orders of 8th April 2025, in view of the new assets and beneficiaries.

9. Section 76 of the Law of Succession Act, Cap 160, Laws of Kenya, grants a discretion to the court to revoke grants. The exercise of that discretion is prompted by an application by the parties, but the court may move on its own motion. The court need not revoke a grant, it may make other orders, instead, to meet the ends of justice.
10. Consequently, the orders that I make herein, to dispose of the applications, dated 15th June 2025 and 17th June 2025, are:
 - a) **That I appoint Winnie Anyango Otieno an administratrix of the estate herein, in addition to the administratrices who are already in office, Elizabeth Pamela Anyango and Rosemary Nabwire Ouma, and the grant of letters of administration intestate, made on 8th April 2024, and issued on 13th May 2024, shall be amended accordingly;**
 - b) **That the 3 administratrices shall put their heads together, to identify all the assets of the estate of the deceased, and all the beneficiaries, and work out on a new mode of distribution of the estate, in which they shall factor the new assets and beneficiaries, and upon reaching an agreement, they shall approach the court for review of the confirmation or distribution orders of 8th April 2025;**
 - c) **That, in the event no agreement is reached, in terms of paragraph (b), above, either of the 3**

administratrices shall be at liberty to move the court for review of the orders of 8th April 2025, upon inclusion of the assets and beneficiaries, who had been left out in the orders of 8th April 2025;

- d) That, to facilitate (b) or (c) above, the execution or implementation of the orders of 8th April 2025, or the certificate of confirmation of grant, dated 30th April 2025, is hereby stayed or suspended, pending the actions contemplated in (b) and (c), above; and
- e) That the matter shall be mentioned, on 3rd February 2026, for compliance and further orders or directions.

11. Orders accordingly.

**DELIVERED, VIA EMAIL, DATED, AND SIGNED IN CHAMBERS,
AT BUSIA, THIS 19TH DAY OF DECEMBER 2025.**

**W MUSYOKA
JUDGE**

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Adhiambo, instructed by Okoth Oluoch & Company, Advocates for the applicant.

Mr. Ouma, instructed by BM Ouma & Company, Advocates for the administratrices.