

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUSIA
SUCCESSION CAUSE NO. E002 OF 2023

IN THE MATTER OF THE ESTATE OF THE LATE RICHARD
OCHANA (DECEASED)

RULING

1. I am supposed to be writing a ruling on a summons for confirmation of grant, dated 3rd April 2025. The oral hearings closed on 2nd October 2025, after Moses Emongole failed to attend court to prosecute his protest, to the application, dated 2nd October 2025.
2. Moses Emongole subsequently filed an application, dated 15th October 2025, in Busia High Court Misc. Case No. E083 of 2025. The miscellaneous file was opened ostensibly as the main succession file was in my chambers, for the purpose of the writing of the ruling on the confirmation application. He sought leave to file a witness statement out of time, and to be allowed to cross-examine the applicant.
3. That application, of 15th October 2025, was placed before me on the same date, and I directed that it be served, for *inter parties* hearing, on 23rd October 2025.
4. Come 23rd October 2025, Moses Emongole was in court, alone, without attendance by the applicant in the confirmation application, or his Advocate. He had filed an affidavit of service, sworn on 18th October 2025, indicating that service had been effected, on 18th October 2025, on the firm of Okeyo Ochiel & Company Advocate for the applicants, through their email address, okeyoadvocates@gmail.com. An extract from MGmail was attached.

5. Being satisfied with that service, and noting that there was no opposition to that application, dated 15th October 2025, I allowed it, as prayed.
6. The effect of the order, of 23rd October 2025, was to suspend determination of a confirmation application, dated 3rd April 2025, to allow Moses Emongole file a witness statement, cross-examine the applicant and to adduce evidence in support of his protest.
7. That being the case, I hereby appoint 3rd February 2026, as the date for further hearing, of the confirmation application, dated 3rd April 2025, when Moses Emongole shall cross-examine the applicant, and thereafter adduce evidence in support of his protest or objection.
8. 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.

Mr. Moses Emongole, the protestor in person.

Advocates

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