



REPUBLIC OF KENYA



**In re Estate of Okeya Omunyin Ebaale (Deceased) (Succession Cause  
236 of 2008) [2025] KEHC 19175 (KLR) (22 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 19175 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
SUCCESSION CAUSE 236 OF 2008  
WM MUSYOKA, J  
DECEMBER 22, 2025**

**IN THE MATTER OF THE ESTATE OF OKEYA OMUNYIN EBAALE (DECEASED)**

**RULING**

1. On 18<sup>th</sup> July 2025, I delivered a ruling herein, where I confirmed the grant herein, and ordered distribution of the estate.
2. Paul Erneo Okeya has come back to court, with an application, dated 7<sup>th</sup> August 2025, for review of the orders that I made on 18<sup>th</sup> July 2025, and for leave to introduce new evidence, for consideration, which he says was not available at the hearing prior to the said ruling.
3. The grounds, on the face of the application, are to the effect that there is an obvious error on the record, as the estate property is depicted as South Teso/Amukura/1079, instead of South Teso/Amukura/1076; the total acreage of what was distributed exceeded the acreage reflected in the documents; there was reliance on forged documents; the survey report and mutation forms were irregular and were procured through undue influence; the survey report ordered by the court contradicted the shares of Ludovico Omunyin Okeya that were confirmed in the ruling; new and credible evidence, which was not available at the time of the ruling, existed; and the certificate of confirmation of grant misrepresented the acreage and the rightful entitlements of the beneficiaries.
4. In his affidavit, sworn on 7<sup>th</sup> August 2025, the applicant avers that the estate property is South Teso/Amukura/1076, and not South Teso/Amukura/1079; that the total acreage of South Teso/Amukura/1076 was 18.43 hectares, and not 26.09 hectares; there was a forged document relied upon by Bonface Ojuma Epuret, and which was the subject of ongoing criminal investigations; he has a copy of the genuine sale agreement between himself and Bonface Ojuma Epuret, and an official search certificate and original sketch maps, showing the actual boundaries left by the deceased. He would like the orders of 18<sup>th</sup> July 2025 reviewed, based on what he has deposed.
5. Bonface Ojuma Epuret has responded, vide an affidavit he swore on 12<sup>th</sup> September 2025. He avers that the applicant, Paul Okeya, sold the land to him in 1993. In 1994, Paul Okeya took him to the Land Control Board, and subdivision was allowed, to facilitate excision of the portion he had bought. Okeya Omunyin then brought a surveyor, who prepared mutations, marking the boundaries between



- the various parcels. His parcel became South Teso/Amukura/2667, which was awarded to him in the ruling of 18<sup>th</sup> July 2025. He asserts that the subdivisions were done by the deceased himself. He states that Paul Okeya, during the hearing, had asked for an order to allow a surveyor visit the land. That was allowed, and the surveyor visited the land, and prepared a report which was produced in court.
6. Directions were taken, on 29<sup>th</sup> September 2025, for disposal of that application, dated 7<sup>th</sup> August 2025, by way of written submissions. Only one party, the applicant, filed written submissions. I have read them, and noted the arguments made.
  7. The review application is premised on 2 grounds, error on the face of the record, and discovery of new evidence, that was not available during the hearing.
  8. The error relates to the depiction of the estate property, South Teso/Amukura/1076, as South Teso/Amukura/1079. I have gone through the record, and noted that error. It was typographical. It was of the kind that could be addressed through the Slip Rule. It was addressed in that manner. A letter was placed before me, on 30<sup>th</sup> September 2025, from the firm of Consolatah Masakhwe & Company, Advocates, dated 9<sup>th</sup> August 2025, and another from Masiga Otieno & Associates, pointing out that error. I identified it as an error correctable vide the Slip Rule, and I directed that the ruling of 18<sup>th</sup> July 2025 be rectified, to reflect the correct land reference number for that property.
  9. On the exact acreage of the estate property, South Teso/Amukura/1076, the court relied on the material that the parties placed on record. If the acreage on the ground differs from that on paper, then the parties should work with the surveyors, to establish the correct acreage. After which they should move the court for amendment of the certificate of confirmation of grant.
  10. On the sale agreement relied on by Bonface Ojuma Epuret being a forged document, the applicant did not, at trial, lead any evidence in that direction. He did not intimate that he had presented the document to the police, for forensics, and he did not present a handwriting expert as a witness on any forgeries. He has not attached any documents to his affidavit, to demonstrate that he now has evidence that those materials were forged. He has not explained why he did not present material in that direction when the matter was actively on trial.
  11. Although the applicant alleges that he has a genuine copy of the sale agreement between him and Bonface Ojuma Epuret, he has not exhibited it in his application. He has equally not exhibited the official search and the original sketch maps showing the boundaries left by the deceased, which he claims to have in his possession.
  12. I do not have any material before me, which would provide a foundation, for me to grant the orders sought, in the application, dated 7<sup>th</sup> August 2025. There can be no merit in that application, in the circumstances. The said application is hereby dismissed. Each party shall bear their own costs, this being a succession cause.
  13. Orders accordingly.

**DELIVERED, DATED AND SIGNED IN OPEN COURT, AT BUSIA, ON THIS 22<sup>ND</sup> DAY OF DECEMBER 2025.**

**WM MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant.

Mr. Simon Emong'or Enagai, the 2<sup>nd</sup> protestor, in person.



Advocates

Mr. Simon Batwaula, instructed by SP Batwaula & Associates, Advocates for Paul Erneo Okeya.

Mr. Tyson Otieno, instructed by Masiga Otieno & Associates, Advocates for Ludovico Omonyin Okeya.

Ms. Consilatah Masakhwe, instructed by Consilatah Masakhwe & Company, Advocates for Bonface Ojuma Epuret.

