



**In re Estate of Makokha Idris Musindalo (Deceased) (Succession Cause  
13 of 2017) [2026] KEHC 2031 (KLR) (20 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2031 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
SUCCESSION CAUSE 13 OF 2017**

**AC BETT, J**

**FEBRUARY 20, 2026**

**IN THE MATTER OF THE ESTATE OF MAKOKHA IDRIS MUSINDALO (DECEASED)**

**BETWEEN**

**ZUBEIDAH KHASABULI IBRAHIM ..... 1<sup>ST</sup> ADMINISTRATOR  
GABRIEL WESONGA ..... 2<sup>ND</sup> ADMINISTRATOR  
HANIFA IDRIS MUSINDALO ..... 3<sup>RD</sup> ADMINISTRATOR  
FAMI IDRIS ..... 4<sup>TH</sup> ADMINISTRATOR**

**AND**

**SELFA QUEEN MUDIBO ..... 1<sup>ST</sup> PROTESTOR  
UMU MALOBA MUSINDALO ..... 2<sup>ND</sup> PROTESTOR**

**RULING**

1. The applications for determination are two. The one dated 14/4/2025 is replete with accusations by the 4<sup>th</sup> Administrator against the 1<sup>st</sup> Administrator for failure to render accounts. In contrast, the application dated 3/6/2025 seeks an order for payment of legal fees from the deceased's accounts.
2. This is an old matter as the parties had initiated the succession proceedings in 2017. This court, through a Judgement by Hon. Justice W. Musyoka delivered on 7<sup>th</sup> October 2022, postponed the confirmation of the grant and stated as follows:-

”76 Consequently, the final orders that I shall make in the circumstances are as follows:

- a. That I hereby postpone, in terms of section 71 (2) (d) of the *Law of Succession Act*, confirmation of the grant herein;



- b. That I direct the administrators, jointly and severally, in the next 45 days, to file and serve a full inventory of all the debts owed by the estate to financial institutions, with proposals on how they intend to settle those debts;
  - c. That, should it turn out that all the said debts have been settled and the charges discharged, let the appropriate supporting documentation be filed herein and served within 45 days;
  - d. That the applicant has 45 days to cause the shareholding in Idris Trading Company Limited to be restored to the position it was as at on the 2nd January 2017;
  - e. That the 1st Administrator/1st protestor/Zubeida Khasabuli Ibrahim has 45 days to restore the registration of KCB 256 B to the name of the deceased;
  - f. That I direct that the paternity of George Wesonga be determined in terms proposed at paragraph 47, above, of this judgment, in the next 45 days;
  - g. That I direct the administrators, jointly and severally, to cause all the assets discussed in this judgment, whether belonging to the estate or not, to be valued and the valuation reports thereon to be lodged herein in the next 45 days;
  - h. That the matter shall be mentioned after 45 days, to confirm compliance and for further directions; that final orders on distribution shall be made only after full compliance with all the directions given above;
  - i. That costs shall be in the cause; and
  - j. That any party aggrieved by any of the findings, holdings and orders made here above has leave of 28 days to file an appeal at the Court of Appeal.”
3. The parties in each order were given 45 days to comply with the orders of the court pending confirmation of the grant. Unfortunately, the parties have dragged the matter out by reluctantly complying with the court’s orders piecemeal, thereby further delaying confirmation of the grant.
  4. Whereas the 4<sup>th</sup> Administrator acted in compliance with Clause (b) of the order of the court and filed a full inventory of what he averred were all the debts owed to the estate, he averred that at the time of the death of the deceased, he did not have any debts. The other Administrators did not refute the 4<sup>th</sup> Administrator’s averment. Still, the 1<sup>st</sup> Administratrix, who is the widow of the deceased, submitted a list of debts owed to the estate vide her affidavit sworn on 2nd July 2024, detailing a schedule of wages allegedly owed to workers, which the 4<sup>th</sup> Administrator contested.
  5. It is further noted that in respect of the debt allegedly owed by the estate, the Administrators have failed to update the list. As an example, if the rates payable in respect of L.R. No. Bungoma Municipality/517 was Ksh. 191,116/= as at 20<sup>th</sup> November 2023, what is the position as at 5<sup>th</sup> November 2025? This is the same case with UNS/COM.10911. I believe that rates accrue annually and attract penalties when not settled within the requisite period. A rates demand note, easily available on demand, would have enabled the court to make the right determination. Still, due to the lack of diligence and the push-and-pull exhibited by the Administrators, no one bothered to obtain updated rate-demand notes.
  6. Regarding L.R. No. North Wanga Matungu/976, the 4<sup>th</sup> Administrator claimed that the title was revoked. However, he did not attach the copy of the proceedings and Judgement that led to the revocation, which he averred that he had attached. On her part, the 1<sup>st</sup> Administratrix averred that the title in respect to the said land had been erroneously revoked but was reinstated in ELC. Appeal No.



- E035 of 2023. She attached a copy of the Decree in Kakamega ELC. Appeal No. E035 of 2023 to her supplementary affidavit. A cursory glance at the said order, however, reveals that the proceedings therein were in relation to L.R. No. N. Wanga/Kholera/624 and L.R. No. N. Wanga/Matungu/347 in the name of Peter Masinde Waswa and not the deceased herein. In the absence of an accurate inventory, the court is unable to determine whether the said property forms part of the free estate of the deceased.
7. Further, despite the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Administrators arguing that they had acted in compliance with the court orders, I did not find their valuation reports in the record.
  8. The court further noted that the statements from the deceased's other accounts are not on record, and there is no evidence that the deceased did not operate the said accounts.
  9. Accordingly, the court is of the view that the Administrators are not keen on having the estate distributed for their own reasons. This reluctance is demonstrated by their lackadaisical response to the order dated 7<sup>th</sup> October 2022.
  10. Needless to say, even the DNA test ordered by the court took an inordinate time to conduct, with the parties initially disagreeing on who should bear the costs and in which laboratory the test should be conducted.
  11. Be that as it may, the DNA test was eventually conducted by the Government Chemist, Nairobi, who returned a report dated 17<sup>th</sup> June 2025 confirming the 2<sup>nd</sup> Administrator Gabriel Wesonga as a biological child of the deceased. A confirmatory test by Lancet Laboratories was not done despite the court's directive that the samples for both tests be drawn in Nairobi. Nonetheless, since the court had incorporated the default clause that in default of compliance with its orders dated 12<sup>th</sup> March 2025, the 2<sup>nd</sup> Administrator would be deemed to be the biological child of the deceased, the court declares the 2<sup>nd</sup> Administrator so, notwithstanding the absence of a confirmatory test.
  12. The numerous applications being filed by the parties only serve to obfuscate the issues in this cause. Accusations and counter-accusations have arisen regarding the conduct of the Administrators. The 4<sup>th</sup> Administrator has accused the 1<sup>st</sup> Administrator of failing to account for her administration of the estate fully. In response, the 1<sup>st</sup> Administratrix has accused the 4<sup>th</sup> Administrator of taking approximately 10,000,000/= from the estate of the deceased.
  13. Additionally, it is not clear whether the deceased owned any land in Mumias, which land the 4<sup>th</sup> Administrator refers to as the ancestral home, or another parcel of land adjacent to L.R.No North Wanga/Matungu/976.
  14. The court is of the view that deciding on the two applications herein could end up being prejudicial to the parties, as the court is not in the full picture of the extent of the assets and liabilities of the estate, as well as an agreed mode of distribution of the assets of the deceased. The court shall therefore determine the two applications alongside the distribution of the estate.
  15. For this court to make a full determination and confirmation, the administrators are herein directed as follows:-
    - a. The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Administrators are to file their valuation of all the assets of the deceased or if in agreement with the 4<sup>th</sup> Administrator's valuation, to file an affidavit confirming their position.
    - b. A current notice of the land rates of L.R. No. Bungoma/Municipality/517, Unsurveyed Commercial Plot No 10911, and L.R. No Mumias Township/Block 1/10.



- c. The 1<sup>st</sup> Administratrix to provide an affidavit on the current position of the motor vehicle KCB 256 B, KBA 270 Caldina and KAJ 227 P Isuzu Trooper and their outstanding liabilities.
  - d. The parties are directed to avail the final judgement and decree in respect to land parcel L.R. No. North/wanga/matungu/976 to enable the court determine whether it forms part of the deceased's estate.
  - e. The 4<sup>th</sup> Administrator to provide a full statement of accounts relating to the rental incomes of L.R No. East Bukusu/south Kanduyi/6483, 6484, 6485, 6486, 6487 and 6488, and Bungoma/ Municipality/517.
  - f. The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Administrators are to file, jointly or severally, a current bank account statement of the following accounts;
    - i. Diamond Trust Bank Account No. 5XXXXXXXXXXXX01
    - ii. Cooperative Bank of Kenya 01XXXXXXXXXXXX01
    - iii. ABSA (formerly Barclays bank) 0XXXXXXXXXXXX2
    - iv. Family bank 0XXXXXXXXXXXX06. In the event the deceased did not have any account with any of the named banks at the time of his death, the Administrators shall secure a letter from the respective bank confirming the position.
  - g. The 4<sup>th</sup> Administrator to file his affidavit on his preferred mode of distribution of the estate.
16. The parties are hereby directed to file the said documents within the next 45 days of the date of this ruling, and in default, the court shall revoke the Grant and appoint the Public Trustee as Administrator.
17. The matter shall be mentioned on 9/4/2026 to confirm compliance.

**DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 20<sup>TH</sup> DAY OF FEBRUARY 2026.**

**A. C. BETT**

**JUDGE**

In the presence of:

Prof. Nandwa for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Administrators

Mr. Manyange for the 4<sup>th</sup> Administrator

Court Assistant: Polycap

