

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT BUSIA**  
**SUCCESSION CAUSE NO. 73 OF 2003**

**IN THE MATTER OF THE ESTATE OF JOHN OJWANG MUTUMA (DECEASED)**

**RULING**

1. This ruling relates to the estate of John Ojwang Mutuma, who died on 24<sup>th</sup> August 1981. The Assistant Chief of Elukongo Sub-Location, by a letter dated 6<sup>th</sup> July 2003, identified the persons who had survived the deceased, as his widow, Anjelina Ayieko Ojwang, and his son, Isack Mutuma Ojwang. The deceased was indicated to have died possessed of Marachi/Elukongo/289.
2. Representation to his estate was sought by his son, Isack Mutuma Ojwang, by a petition he filed herein on 8<sup>th</sup> August 2003. The petitioner identified the survivors of the deceased as himself and the widow of the deceased. Marachi/Elukongo/289 was listed as the asset of the estate. Letters of administration intestate were made to the petitioner, on 3<sup>rd</sup> December 2003, and a grant, of even date, was issued. I shall refer to Isack Mutuma Ojwang as the administrator.
3. The administrator then filed a summons for confirmation of his grant. The summons was dated 1<sup>st</sup> September 2006. He identified the persons entitled to a share of the estate as himself and the widow. He identified Marachi/Elukongo/289 as the property available for distribution. He proposed that the said property be devolved wholly upon himself.
4. It is not clear whether the estate was transmitted to the administrator, for I have not seen, from the record, a certificate of confirmation of grant. It is not clear if one was ever processed and issued. It was not, then it would mean that transmission never happened. However, it is clear, from the record, that the grant was never confirmed, for the application, dated 1<sup>st</sup> September 2006, was never heard and determined.
5. Be that as it may, it would appear that the administrator died, on 10<sup>th</sup> February 2011, according to certificate of death serial number 1908584, of 19<sup>th</sup> December 2024. Succession proceedings were, thereafter, initiated in his estate, in Busia MCSC No. E163 of 2025, by Josephine Nabwire Mutuma, his widow. The property, listed in that cause, as making up his estate, is Marachi/Elukongo/289, the same property in the instant cause herein, Busia HCSC No. 73 of 2003, in the

estate of his father. That could suggest that transmission of the estate, in Busia HCSC No. 73 of 2003, happened, and ownership, of Marachi/Elukongo/289, was transferred or transmitted from the father to the son. However, I cannot confirm whether, indeed, such a transfer or transmission happened, for a certificate of official search, in respect of Marachi/Elukongo/289, has not been filed in Busia MCSC No. E163 of 2025, in the estate of the son, to indicate the status of ownership of the property, as at the date of the death of the son in 2011. A grant was made to Josephine Nabwire Mutuma, on 25<sup>th</sup> May 2025.

6. The filing, of Busia MCSC No. E163 of 2025, has provoked the filing of an application herein, for revocation of the grant made herein, to Isack Mutuma, the administrator herein and the deceased in Busia MCSC No. E163 of 2025. That application is dated 22<sup>nd</sup> August 2025, and it is at the instance of Anjelina Ayieko Mutuma, the widow of the deceased herein, who I shall refer to hereafter as the applicant. She prays that the transmission of Marachi/Elukongo/289, to the name of Isack Mutuma Ojwang, be cancelled, and that that asset be reverted to registration in favour of the deceased herein, John Ojwang Mutuma. She would like to be appointed administratrix *de bonis non*, and to be authorised to apply for a fresh distribution of Marachi/Elukongo/289.
7. In her affidavit in support, the applicant does not raise the issue of the death of the administrator, and does not anchor the application herein on that, although she does disclose that fact. She anchors her application on the manner the grant was obtained. It is asserted that the late administrator left out the daughters of the deceased, being his own blood sisters, said to be Veronica Nabwire Wanga, Lucy Atieno Ojwang and Phoebe Akinyi Ojwang. It is averred that the grant was obtained on the basis of fraud, concealment of matter from the court and misrepresentation. It is stated that the late administrator portrayed himself, falsely, as the sole child of the deceased, despite the deceased also having had other children. He is accused of having knowingly misled the court. The applicant points out that the grant herein has never been confirmed. She expresses fear that Marachi/Elukongo/289 could be distributed in Busia MCSC No. E163 of 2025, to her detriment, and to that of the daughters of the deceased.
8. Attached to the revocation application is a copy of certificate of official search, on Marachi/Elukongo/289, dated 10<sup>th</sup> November 2023, indicating that it was registered, on 24<sup>th</sup> September 2006, in favour of the administrator, Isack Mutuma Ojwang. There is also a certificate of death, serial number 150986, of 8<sup>th</sup> August 2012, indicating that Isack Mutuma Ojwang died, on 10<sup>th</sup> February 2012, which date differs from that attached to the petition in Busia MCSC No. E163 of 2025, with a possibility that there is a typing error in either of the two.

9. The administratrix, in Busia MCSC No. E163 of 2025, has filed a response to the revocation application. Her affidavit was sworn on 19<sup>th</sup> September 2025. I shall refer to her, hereafter, as the respondent. She avers that the cause herein was closed in 2003, and is being revived 22 years later, after the estate was spent. She argues that the late administrator, having died in 2012, cannot respond to the issues being raised in the application. She asserts that the late administrator was the only son of the deceased, which made him the sole beneficiary of the estate, and that, upon his demise, she became the person responsible for the property. She avers that the cause, in Busia MCSC No. E163 of 2025, is at the initial stages, and that she has not discriminated against anyone. She avers that she would take care of the interests of all, including the applicant herein, and she undertakes to render an account, at the end of it.
10. Directions were given, on 28<sup>th</sup> October 2025 and 27<sup>th</sup> November 2025, for canvassing of the application by way of written submissions. Both sides have filed written submissions, which I have read and noted the arguments made.
11. The law on the revocation of grants is section 76 of the Law of Succession Act, Cap 160, Laws of Kenya. That provision gives the court discretion to revoke grants. It identifies 3 general reasons for which a grant may be revoked. "May," because the power to revoke is discretionary, and a court may decline to revoke a grant, even where a case is made out. Whether a grant should be revoked, after a case is made out for the revocation, would depend on the unique circumstances of each case, founded on such factors as the gravity of the sins or wrongs committed by the personal representatives and the remedial action required to correct the situation.
12. The first general ground relates to whether there were problems with the way the grant was obtained. Problems could manifest or present themselves in 3 possible ways. One, would be with respect to defects in the process. Defects point to weaknesses or mistakes in the process, such as where a critical document is not presented; or where the person applying is not entitled in priority over another, and had not obtained the relevant consents; or where the deceased died testate, yet the grant is sought in intestacy or vice versa; among others. The second would be where there is fraud and misrepresentation, such as where the applicant claims to be a widow or child of the deceased, when they are, in fact, not; or where the applicant misrepresents that he was the sole survivor of the deceased, yet there were other survivors, among others. The third would be where there is concealment of important matter from the court. This would be an aspect of misrepresentation, such as where there is non-disclosure of certain

facts. It is common where the applicant conceals or omits to disclose the names of some of the survivors of the deceased and other beneficiaries of the estate.

13. The second general ground relates to problems in the course of the administration of the estate. Section 71 of the Law of Succession Act identifies 3 scenarios. One, where the administrator has failed to apply for confirmation of his grant, within the timelines given under section 71 of the Law of Succession Act. Two, where the administrator fails to render accounts; as, when and where required by the relevant law or by the court. Three, where the administrator is not diligent, so far as administration is concerned. This would be because he fails to carry out some duty of administration, such as collecting or getting in an asset of the estate, and, thereby, exposing the estate to wastage.
14. The third, and final, general ground or reason or circumstance would be where the grant becomes useless or inoperative, on account of subsequent events or circumstances. That is where events occur, which make the grant useless or inoperative. Such as where there is only 1 administrator, and he dies, leaving the estate without an administrator. The death, of such a sole administrator, would render his grant useless or inoperative, for no one else can use it, for it would not vest the estate in anyone else, and it would not confer administrative competence on anyone else. The circumstance would also arise where the administrator is robbed of competence to discharge office, as administrator, such as in a situation where he is adjudged bankrupt, or where he loses mental capacity or ability.
15. The application herein is premised or founded on the first general ground. It is alleged that there were problems with the way the grant was obtained. Only 2 of the survivors of the deceased were disclosed, 1 son and the surviving widow. Yet there were other survivors, for the deceased had other children, who ought to have been disclosed. Secondly, it is argued that the consents of the other survivors were not obtained. The property of a dead person does not devolve automatically to anyone, not even to those that the law identifies as the beneficiaries, who ought to be provided for. There is a process that ought to be undertaken, to facilitate the devolution. It is the court which oversees the devolution, hence there is a court process that has to be gone through, to ensure that the property is properly devolved to those that the law says are the persons entitled to it.
16. That process is democratic. It requires that all persons who survived the deceased, particularly from the immediate family, must be involved. Involvement, in the process, is not limited to the family members who think

themselves to be the only ones entitled to a share in the estate. It is the court which determines who is entitled. Involvement requires that all the immediate family members should be made aware of the process, and involved in it. So, they must be notified and required to sign documents, as evidence of the notification and of consent to the applicant to go ahead. Such notifications and consents would, essentially, evidence the involvement. It is not just about consenting or agreeing to this or that, for involvement also affords opportunity, to whoever may have objections or opposition, based on some ground or other, to any aspect of the process, to raise the same. That is what democracy is all about. Where those democratic processes are not undertaken, then that exercise of obtaining the grant would be deficient, and that grant would be liable to revocation.

17. The process of obtaining the grant is governed by Part VII of the Law of Succession Act and the relevant provisions of the Probate and Administration Rules. Section 66 of the Law of Succession Act gives a list of preference for appointment of administrators. Surviving spouses are given priority over the children. Regarding children, with respect to entitlement to appointment as administrators, the provision is gender-neutral, for it does not categorise children into sons and daughters, neither does it make their marital status an issue. Under Rules 7(7) and 26 of the Probate and Administration Rules, persons who do not have prior right ought to not apply for a grant, and where they have to, for whatever reason, they must to obtain the consent of those with prior right, or ask them to waive or renounce their right. Where those with prior or equal right decline to consent or to waive or renounce the right to apply, the applicant, with a lesser or equal right, ought to file an affidavit, to explain the inability to obtain the consent, or waiver, or renunciation. The same would apply to an applicant with equal right or entitlement to administration with others. The consent, or waiver, or renunciation of those others, with equal right, has to be obtained, or inability to obtain it, that is the consent, or waiver, or renunciation, must be explained, by way of affidavit.
18. A surviving spouse, such as a widow or widower, has a prior right over the children of the deceased. A child applying must obtain the consent of the widow or widower. Children of the deceased, be they sons or daughters, whether married or unmarried, have equal right or entitlement to administration. Where 1 of several children of the deceased applies for a grant, he or she must obtain the consent, or waiver, or renunciation of all his siblings, be they sons or daughters, married or unmarried. The failure or omission to obtain and file the consent, or waiver, or renunciation, or, the affidavit in default, is good ground for revocation of the grant.

19. Related to that is disclosure of all the persons who survived the deceased and the persons beneficially entitled to a share in the estate. Section 51 of the Law of Succession Act and Rule 7 of the Probate and Administration Rules provide the procedure for applying for a grant. They provide for the documents to be filed, and what ought to be disclosed in the filings. Section 51(2)(g) of the Law of Succession Act, provides, in case of intestacy, that all the surviving spouses and surviving children ought to be disclosed. Disclosure of these relatives is required by statute, and it is mandatory. Non-disclosure of such relatives of the deceased would be a defect in the process, and a grant, tainted by such non-disclosure, would be liable to revocation.
20. So, what happened here? The petitioner herein, that is the late administrator, only disclosed himself and the widow of the deceased. He did not disclose the 2 daughters. That was a defect in the process. That, alone, would be a good ground for revocation of the grant made to him.
21. Perhaps, the centrality of such disclosure should be discussed. It is not the party that decides who is entitled to what share in the estate of the deceased. That role belongs to the court. That is why the matter is filed in court in the first place. The court ought to be in the picture, in terms of having full information on who survived the deceased, so that it can make an informed decision on who is entitled to a share in the estate, before it orders the distribution. Failure to make a full and proper disclosure would lead the court to make a decision which is not fully informed, where some of those entitled could be disinherited. Non-disclosure presents the spectre of prolonged succession proceedings, for those that the court leaves out, for they are not disclosed, and the court is not aware of their existence, at the time it makes orders on distribution, would always come or move to court, to assert their rights or entitlement to a share in the estate, once it comes to light that succession proceedings were undertaken stealthily, to their total exclusion. Such intervention, by the excluded, would take the form of a revocation application, as is the case here.
22. The deceased herein was survived by a widow and children. The surviving widow had a prior right to administration, over the children. In other words, she had first priority for appointment as administratrix, over the children. Her consent, to any of the children applying, and thereby being passed over in their favour, was critical. It was mandatory, for the late administrator, as a child of the deceased, to obtain a consent, from the widow, indicating that she did not object to him applying. The alternative, to the consent, would have been a waiver or renunciation by the widow, to effect that, although she was entitled, in priority to the son, to petition for representation, she was waiving or renouncing that right,

so as to allow others, including the son, to apply. No such consent, or waiver, or renunciation was filed. In default of the consent, or waiver, or renunciation, the late administrator should have filed an affidavit, to explain the default. That is explain why he did not or could not obtain the waiver or renunciation or consent of the widow. Perhaps, she declined to give the same, or her whereabouts were unknown at the time the petition was filed. Or some such other explanation. The fact that that was not done, points to a defect in the process, for which the grant could be revoked.

23. From the affidavit of the applicant, in the instant application, the deceased was survived by 2 daughters. These 2 daughters were not disclosed in the petition that the late administrator filed, when he initiated this cause. There is no evidence, in the record, that the late administrator obtained their consents, or waivers, or renunciations of their right to petition for representation. Neither did he file an affidavit in default, to explain the absence of the consents, waivers or renunciations by the daughters. Again, that is a defect, which exposes or disposes the grant to revocation, on grounds that it was obtained on the basis of a defective process, or in concealment of important matter from the court, or it amounted to fraud or misrepresentation.
24. What I read, from the reply by the widow of the late administrator, that is the son of the deceased, and her late husband, is that he was the only person who was entitled to the property, of the estate, ostensibly as the other children were daughters.
25. The deceased died on 24<sup>th</sup> August 1981, that was after the Law of Succession Act had come into force on 1<sup>st</sup> July 1981. Under section 2(1) of the Law of Succession Act, the applicable law, to the distribution of the estate herein, was the Law of Succession Act, for the deceased had died after the Law of Succession Act had become effective. Under section 2(2) of the Law of Succession Act, customary law, and other laws that were in force prior to 1<sup>st</sup> July 1981, only applied to estates of persons who died before the Law of Succession Act became effective on 1<sup>st</sup> July 1981. The fact that the deceased died after 1<sup>st</sup> July 1981 disqualified the application of customary law to the estate of the deceased herein.
26. Why is that relevant? It appears that the deceased died intestate, for no will was produced after his death. Having died intestate meant that his estate fell for distribution in accordance with the intestacy provisions in Part V of the Law of Succession Act. If he had died prior to 1<sup>st</sup> July 1981, before the Law of Succession Act became effective, the estate would have been for distribution in accordance with the applicable customary law of intestacy. Customary law does not permit

daughters to inherit. It only caters for sons. The presumption is that daughters, all of them, ought to or should get married, or would ultimately marry, and leave their parents' homes and families, and become members of the families of their husbands, and thereby enabling them to access land through their husbands. Under the Law of Succession Act, Part V, that is not the position. There is no such distinction under that law, for all are treated as children of the deceased, regardless of gender and marital status. There is no categorisation, or segregation, or discrimination. All children are treated equally and should be equally provided for.

27. The late administrator proceeded under what customary law prescribes, rather than what the Law of Succession Act requires, yet the Law of Succession Act has overridden customary law, by dint of section 2(1). The late administrator thought that he was the only one entitled to a share in the estate. He was wrong. He should have contended with sections 35(5) and 38 of the Law of Succession Act, both in Part V, which provide for equal distribution of the estate of a dead parent, amongst all the children, without categorizing them into male and female, son and daughter, and married and unmarried.
28. Based on non-disclosure, concealment of matter from court, misrepresentation and defects in the process of applying for representation, a proper case has been made out, for revocation of the grant herein. It was not obtained properly, in view of the case made by the applicant, which the respondent has not adequately countered.
29. There is another reason why the grant herein should be revoked. Indeed, it should be automatically revoked on that ground. The parties have not adverted to it, yet it should be the principal or main reason why the grant herein should be revoked.
30. The holder of the grant, sought to be revoked, is deceased. He died in 2011 or 2012 according to the parties. Upon his demise, his grant became totally useless and inoperative. The event or circumstance of his death rendered it so. A grant is made, in a sense, in *personam*. It is made to a specific person or persons. It is not, for that reason, transferable to another. It can only be revoked, to make way for another appointment. It only vests property in the person appointed, and enables only him to exercise the powers of administration. Upon the death of the grantee, no other person can use or utilise the grant made to the dead person, to assert rights over the estate property, or to purport to exercise the powers that emanate from that grant. That grant has to be revoked, as it effectively becomes useless and inoperative, upon the death of the grantee. Another grant has to be

made, to another person, so as to vest the estate assets to that other person, and enable the new appointee to exercise the powers of administration. The grant herein has become useless and inoperative, following the death of the late administrator, and, by reason of that event or circumstance, it should be automatically revoked. No case needs to be made out here, except proof that the grant-holder is dead, establishable by production of a certificate of death.

31. There is evidence that the estate property was ultimately registered in the name of the late administrator. That would suggest that transmission happened, and administration was completed. That ought to prompt the question whether it would serve any purpose to revoke the grant herein, if administration was completed.
32. The grant herein was never confirmed. A confirmation application was, indeed, filed, but it was never heard and determined. No formal orders were made on it, for distribution of the estate. That application is still pending. Based on that, it cannot be said that the estate was transmitted to the late administrator, and the administration was completed and closed.
33. The asset, the basis of this estate is land or immovable property. It is a capital asset. Sections 55 and 71 of the Law of Succession Act are specific, that capital assets of an estate are not to be distributed before the grant is confirmed. Since there was no confirmation of the grant herein, there cannot have been a lawful transmission of the sole capital asset of the estate, that is to say Marachi/Elukongo/289. The administration of the estate herein was not completed, for there can be no completion of the estate without a transmission, upon confirmation of the grant. There can be no final transmission of the estate prior to the grant being confirmed.
34. There is evidence that there was a transmission of the estate to the late administrator. The property was transferred and registered in his name. However, that was not a final transmission of the asset, so long as the grant herein was not confirmed.
35. Was the transmission of the land to the late administrator lawful? Yes, it was. Transmission, which is in fact provided for and governed by land legislation, that is the Lands Act, Cap 280, Laws of Kenya, and the Land Registration Act, Cap 300, Laws of Kenya, but not the Law of Succession Act, is done in 2 stages. At stage 1, transmission is done after the grant is made, and it enables the land to be registered in the name of the personal representative of the deceased or the administrator of the estate, in trust, for the other beneficiaries, pending

confirmation. The property of a dead person vests in his personal representative or the administrator of his estate, by virtue of section 79 of the Law of Succession Act.

36. The transmission, under stage 1, is intended to ease or facilitate administration, so that the administrator can do those things that the deceased could himself have done, or was under a duty to do, particularly with respect to duties imposed by statute. Such things include paying taxes on the land; payment of rates and rates; entering into contracts on the land, such as leases and tenancies; enforcement of any causes of action, relating to the land, to either protect it or preserve it, or collect and get in any profits relating to it; disposal, by way of sale, with leave of court; among others. However, transmission, under stage 1, does not constitute the administrator the absolute owner of the land, for distribution of the land would not have been authorized by the court, through confirmation of his grant. Transmission, under stage 1, does not constitute distribution of the estate, for distribution only comes with or upon confirmation of the grant, and any distribution, prior to confirmation, would be without the authority of the court.
37. Transmission, under stage 2, follows confirmation of the grant. Confirmation of grant carries with it orders on distribution of the estate, as proposed by the administrator and approved by the court, or as determined by the court. Upon confirmation of the grant, a certificate of confirmation of the grant is extracted from the confirmation orders, and it sets out how the estate is to be distributed. The transmission, at stage 2, is founded on confirmation orders, as set out in a certificate of confirmation of grant. Without a confirmation of the grant, there can be no final transmission, under stage 2, for confirmation is the court order which allows the final transmission.
38. The transmission, under stage 1, is only partial; while transmission, under stage 2, is final. Put differently, transmission, under stage 1, is only temporary, pending final orders on distribution at confirmation. Transmission, under stage 1, is only to an administrator, and he is registered to hold the property as administrator or personal representative, on behalf of the deceased or the estate, in trust for or for the benefit of the survivors and beneficiaries.
39. For avoidance of doubt, with respect to what the law on transmission, upon intestacy says, I hereby cite the relevant provisions in the Land Act and the Land Registration Act.

40. Under the Land Act, the relevant provision is section 50, and it provides as follows:

*“Transmissions*

*50. Transmission on death of a sole proprietor or proprietor in common*

*(1) If a sole proprietor or a proprietor in common dies, the proprietor’s personal representative shall, on application to the Registrar in the prescribed form and on production to the Registrar of the grant, be entitled to be registered by transmission as proprietor in the place of the deceased with the addition after the representative’s name of the words “as executor of the will of (.....) [deceased]” or “as administrator of the estate of (.....) [deceased]”, as the case may be.*

*(2) Upon production of a grant, the Registrar may, without requiring the personal representative to be registered, register by transmission—*

*(a) any transfer by the personal representative; and*

*(b) any surrender of a lease or discharge of a charge by the personal representative.*

*(3) In this section, “grant” means the grant of probate of the will, the grant of letters of administration of the estate or the grant of summary administration of the estate in favour of or issued by the Public Trustee, as the case may be, of the deceased proprietor.”*

41. The relevant provision, on transmission, in the Land Registration Act, is section 61, which states as follows:

*“Part VI—Transmissions and Trusts*

*Transmission on death of a sole proprietor or proprietor in common.*

*61(1) If a sole proprietor or a proprietor in common dies, the proprietor’s personal representative shall, on application to the Registrar in the prescribed form and on the production to the Registrar of the grant, be entitled to be registered by transmission as proprietor in the place of the deceased with the addition after the representative’s name of the words “as executor of the will of..... [deceased]” or “as administrator of the estate of ..... [deceased]”, as the case may be.*

*(2) Upon confirmation of a grant, and on production of the grant the Registrar may, without requiring the personal representative to be registered, register by transmission—*

*(a) any transfer by the personal representative; and*

*(b) any surrender of a lease or discharge of a charge by the personal representative.*

*(3) In this section, "grant" means the grant of probate of the will, the grant of letters of administration of the estate or the grant of summary administration of the estate in favour of or issued by the Public Trustee, as the case may be, of the deceased proprietor."*

42. The provisions, in the 2 land statutes, may appear to be a little unaligned, for the Land Act does not refer to confirmation, but the Land Registration Act does. The Land Registration Act is the principal legislation on registration of interests in land, and it should hold sway over the provisions of the Land Act, which essentially states the rights and obligations with respect to land. Transmission is more about registration of rights, and it speaks to process, rather than substance. For the purposes of transmission, the provisions of the Law of Succession Act, the Land Act and the Land Registration Act ought to be read and applied together.

43. As there were no orders made at confirmation, to allow distribution, or final transmission, of the estate herein, the late administrator did not become the absolute registered owner or proprietor of Marachi/Elukongo/289. He only became a limited owner, pending confirmation orders. Only stage 1 of the transmission process happened. This cause should proceed to confirmation, so that final orders are made on distribution, which should move the matter to transmission under stage 2. The respondent herein has nothing to distribute, in Busia MCSC No. E163 of 2025, for the property she seeks to distribute there, Marachi/Elukongo/289, is not registered absolutely in favour of the deceased in that cause, for he had acquired no absolute title to it, for he only held it in trust for the estate and the other survivors of the deceased and the other beneficiaries of the estate, pending confirmation of the grant. The cause, in Busia MCSC No. E163 of 2025, should be stayed, to await completion of administration in the cause herein, and final transmission of Marachi/Elukongo/289. The late administrator did not own Marachi/Elukongo/289, at the time of his death. The respondent has nothing to distribute, in Busia MCSC No. E163 of 2025, until the cause herein is finalised, the administration of the estate herein completed, and the inheritance, due to the late administrator, is devolved to his estate.

44. I believe that I have said enough to provide basis for a finding and holding that a cause has been made out for the revocation of the grant herein, for the reasons discussed above. The final orders shall be:

- (a) **That the grant made herein, on 3<sup>rd</sup> December 2003, to the late administrator, is hereby revoked;**

- (b) That I hereby appoint the applicant herein, Anjelina Ayieko Ojwang, and the respondent herein, Josephine Nabwire Mutuma, administratrices of the estate herein, and a grant of letters of administration intestate *de bonis non* shall issue, to them;
- (c) That the said administratrices, appointed under (b) above, shall file for confirmation of their grant, within 45 days, of delivery of this ruling, and the matter shall be mentioned on 19<sup>th</sup> May 2026, to confirm the filing.
- (d) That the Busia Land Registrar is hereby directed to revert Marachi/Elukongo/289 to registration under the name of the deceased herein, John Ojwang Mutuma, pending the confirmation application ordered to be filed, under (c) above;
- (e) That the file, in Busia MCSC No. E163 of 2025, shall be returned to the Magistrate's Court registry, with directions that the proceedings therein shall be stayed, to await completion of the administration herein, and transmission of Marachi/Elukongo/289 to the beneficiaries;
- (f) That each party shall bear its own costs; and
- (g) That there is leave, to whoever is aggrieved, by these orders, to move the Court of Appeal appropriately, on appeal.

45. Orders accordingly.

**DELIVERED, VIA EMAIL, DATED, AND SIGNED IN CHAMBERS, AT BUSIA,  
THIS 11<sup>TH</sup> DAY OF MARCH 2026.**

**W MUSYOKA  
JUDGE**

**Mr. Arthur Etyang, Court Assistant.**

**Advocates**

**Mr. Kuchio, instructed by Kuchio Polycarp & Company, Advocates for Anjelina Ayieko Mutuma.**

**Ms. Omolo, instructed by Lukasile & Company, Advocates for Josephine Nabwire Mutuma.**

