



Chakuwa v Oirere & 3 others; Onyaro & 7 others (Interested Parties) (Probate & Administration 2 of 2024) [2026] KEHC 2841 (KLR) (5 February 2026) (Ruling)

Neutral citation: [2026] KEHC 2841 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
PROBATE & ADMINISTRATION 2 OF 2024**

TW CHERERE, J

FEBRUARY 5, 2026

IN THE MATTER OF THE ESTATE OF MARIAM MORAA CHAKUWA (DECEASED)

BETWEEN

ZABLON OSORO CHAKUWA APPLICANT

AND

RUTH NYANCHAMA OIRERE 1ST RESPONDENT

CALVIN ONYARO OSORO 2ND RESPONDENT

PACIFICA KWAMBOKA OSORO 3RD RESPONDENT

ZIPPORAH GWARO 4TH RESPONDENT

AND

EVANS NYABANDO ONYARO INTERESTED PARTY

FRANCIS ABINCHA ONYARO INTERESTED PARTY

JOHN NYABANDO OMARI INTERESTED PARTY

JOSEPHAT MONGARE ONSONGO INTERESTED PARTY

PETER ONDIEKI OBETO INTERESTED PARTY

ALPHONSE SIMION OMANDI INTERESTED PARTY

STEVE NYAGAKA ORORA INTERESTED PARTY

EVANS OMWEGA ONYANCHYA INTERESTED PARTY



RULING

1. Before this Court is the Chamber Summons dated 29th October 2025 filed by Zablun Osoro Chakuwa, the Applicant pursuant to sections 45 and 47 of the Law of Succession Act and Rule 59 of the Probate and Administration Rules.
2. The Applicant seeks the following orders:
 1. Spent.
 2. That pending the hearing and determination of this succession cause, this Honourable Court be pleased to issue a conservatory order restraining the Respondents and Interested Parties, whether by themselves, their agents, servants or any person claiming under them, from intermeddling with, wasting, subdividing, transferring, constructing upon, damaging or otherwise dealing with the assets of the estate of the late Mariam Moraa Chakuwa (deceased).
 3. That the Officer Commanding Station, Kitutu Police Station, be directed to ensure compliance with and enforcement of the orders of this Honourable Court.
 4. That the costs of this application be provided for.
3. The application is supported by the affidavit of the Applicant sworn on 29th October 2025. In that affidavit, the Applicant depones that following the revocation of the grant issued in Nyamira CM Succession Cause No. 82 of 2020, Steve Nyagaka Orora (7th Interested Party), Alphonse Simion Omandi (6th Interested Party) and Evans Omwega Onyancha (8th Interested Party) are associated with parcels Matutu Settlement Scheme/1738, 1739 and 1741, respectively, being subdivisions of Matutu Settlement Scheme/105. The Applicant further depones that the said persons have continued with construction, tree cutting and other developments on the said parcels notwithstanding court orders. He annexes copies of certificates of official search relating to the subdivided parcels, a copy of the status quo orders previously issued, and photographic material depicting construction and land use activities, which he avers constitute intermeddling with the estate.
4. The application is opposed through a replying affidavit sworn by Calvin Onyaro Osoro on 3rd November 2025, on his own behalf and on behalf of the 1st to 4th Respondents and the 5th to 8th Interested Parties, pursuant to a written authority annexed to the affidavit. In opposing the application, the deponent denies any intermeddling with the estate and avers that the subdivisions and transfers complained of occurred prior to the revocation of the grant. He annexes certificates of official search in respect of Matutu Settlement Scheme/1738, 1739 and 1741, which show that the said parcels are registered in the names of Steve Nyagaka Orora (7th Interested Party), Alphonse Simion Omandi (6th Interested Party) and Evans Omwega Onyancha (8th Interested Party) respectively.
5. He further annexes copies of sale agreements relating to the said parcels, in which the same persons appear as purchasers, and which he relies upon to demonstrate the basis upon which the titles were acquired. The deponent also annexes photographic material depicting the condition of the land, which he avers shows that there has been no ongoing construction, wastage or post-revocation dealing with the estate property.
6. The application arises from this Court's ruling delivered on 18th September 2025 by which the grant issued in Nyamira CM Succession Cause No. 82 of 2020 was revoked for want of jurisdiction and



- declared a nullity. Upon that revocation, there was no subsisting grant authorising any person to administer or otherwise deal with the estate of the deceased.
7. The issue for determination at this interlocutory stage is whether the Applicant has demonstrated intermeddling with the estate within the meaning of section 45 of the [Law of Succession Act](#), or otherwise placed before Court sufficient material to justify the grant of conservatory orders.
 8. The Court wishes to emphasise that it is not called upon at this interlocutory stage to determine the validity of any titles held by the Respondents or Interested Parties. The Court's task is confined to assessing whether the material placed before it discloses a sufficient factual and legal basis to warrant conservatory relief under section 45 of the [Law of Succession Act](#).
 9. The Court has examined the photographic material relied upon by the Applicant. The photographs do not indicate when or where they were taken, and their connection to Matutu Settlement Scheme/1738, 1739 and 1741 therefore rests solely on the Applicant's affidavit averments, which are expressly contested by the Respondents and Interested Parties.
 10. Intermeddling under section 45 of the [Law of Succession Act](#) is a serious allegation. It entails unauthorised dealings with the free property of a deceased person by persons lacking a grant. Even at an interlocutory stage, a party seeking conservatory relief must place before Court credible and particularised material demonstrating such unauthorised dealing, or a concrete and proximate risk thereof.
 11. In *Abed v Ali* (Civil Appeal E140 of 2022) [2025] KECA 1323 (KLR) (18 July 2025), the Court of Appeal explained that intermeddling under section 45 of the [Law of Succession Act](#) entails unauthorised dealings with estate property by persons without a grant, and that such conduct must be proved by evidence rather than inferred from contested claims of possession or ownership.
 12. In *Njoroge & another v Kinuthia & another* (Civil Application E084 of 2025) [2025] KECA 1843 (KLR) (7 November 2025), the Court of Appeal cautioned that conservatory orders in succession matters are discretionary and will not issue on the basis of conjecture or unparticularised apprehension, but must be grounded on credible material demonstrating a real factual basis for the relief sought.
 13. Guided by the foregoing principles and the material placed before Court, the evidence does not demonstrate any unauthorised dealing with estate property after the revocation of the grant, or a concrete and imminent risk of such dealing, within the meaning of section 45 of the [Law of Succession Act](#).
 14. The Court accordingly finds that the threshold for the grant of conservatory orders has not been met. In the result, the Chamber Summons dated 29th October 2025 is without merit and is hereby dismissed. The costs of the application shall be borne by the Applicant.
 15. The Court observes that, notwithstanding the dismissal of the present application, the estate remains undistributed. The Court further notes that several substantive orders and directions issued by this Court on 18th September 2025 have not been complied with, with the result that the estate continues to remain without duly appointed administrators.
 16. The continued non-compliance with court orders undermines the orderly administration of the estate and exposes it to the risk of waste and further dispute.
 17. It is therefore in the interest of justice to all parties concerned, and in keeping with the duty of the Court under the [Law of Succession Act](#), that immediate steps be taken to comply with the outstanding orders to facilitate the conclusion of this succession cause, which was filed in 2020.



18. The parties are hereby warned that, in default of compliance within fourteen (14) days from the date hereof, the Court shall, without further reference to the parties, proceed to appoint administrators from among the beneficiaries on record, as the Court shall deem fit, for purposes of progressing the conclusion of this matter.
19. For the avoidance of doubt, any party is at liberty to move the Court appropriately should fresh, credible and particularised evidence of intermeddling with the estate property arise prior to final determination.
20. Mention on 19th February 2026 to confirm compliance with orders issued on 18th September 2025

DELIVERED AT NYAMIRA THIS 05TH DAY OF FEBRUARY 2026

WAMAE.T. W. CHERERE.

JUDGE

Appearances

Court Assistant - Hilda

For Applicant - Ms. Nyaenya for Bosire Gichana & Co. Advocates

For Respondents- Mr. Mogaka for Nicholas Mogaka & Associates Advocates

For 1st to 5th, Interested Parties – N/A

For 6th to 8th Interested Parties - Mr. Mogaka for Nicholas Mogaka & Associates Advocates

