

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI
FAMILY DIVISION
SUCCESSION CAUSE NO. 216 OF 1987
IN THE MATTER OF THE ESTATE OF KENNETH ROBERT
BAKER (DECEASED)

PAULA MYNAN BAGSHAW
APPLICANT

RULING

1. The summons before the court is dated 12th December 2022. The applicant prays for the following:

- a) That the grant of letters of administration issued on 11th May 1987 and confirmed on 13th November 1987 to Purvis Kara Baker Alias Purvis Sadrudem Kara Saju Baker Alias Purvis Sadrudeen Kara Saju Alias Vis Kara Baker of the above-named Kenneth Robert Baker who died on 31st January 1987 be revoked or annulled on the ground that the grant has become useless and inoperative through subsequent circumstances***
- b) That the court be pleased to appoint Paula Mynan Bagshaw And Mackenzie Ann Baker as the administrators of the estate of the late Kenneth Robert Baker (Deceased)***
- c) That the beneficiaries of the estate be amended from:***

- **Consuelo Faye Tegle**
- **Paula J Bagshaw**
- **Robert Joseph Baker**

To:

- **Consuelo Smykal Peterson**
- **Paula Mynan Bagshaw**
- **Mackenzie Ann Baker**
- **Kendra Lynn Baker**

d) any other order that the court may deem just and expedient in the circumstances.

e) costs of the application.

2. The Summons was based on the grounds set out therein and the applicant's supporting affidavit. The applicant, a daughter of the deceased, deposed that the deceased died intestate on 31st January 1987, and a grant of letters of administration in respect of the estate was issued to Purvis Kara Baker on 11th May 1987 and subsequently confirmed on 13th November 1987.
3. She further deposed that the said administrator later died on 21st February 2018, thereby rendering the grant useless and inoperative. She added that she had the authority of her co-proposed administrator, Mackenzie Ann Baker, to swear the affidavit and to seek appointment as joint administrators of the estate in place of the deceased administrator.
4. The applicant further averred that the original petition and supporting affidavit contained material inaccuracies in

respect of the identities of the beneficiaries. In particular, she deponed that her name had been erroneously recorded as "*Paula J Bagshaw*" instead of "*Paula Mynan Bagshaw*," and that her sister had been listed as "*Consuelo Faye Tegle*," whereas her correct name, following remarriage, was "*Consuelo Smykal Peterson*."

5. She further deposed that the original list of beneficiaries failed to account for the fact that their brother, Robert Joseph Baker, had since died on 16th April 2013, and that his interest in the estate ought to devolve to his surviving children, namely Kendra Lynn Baker Truitt and Mackenzie Ann Baker.
6. According to the applicant, the estate comprised, *inter alia*, L.R. No. 17/75 (original number 17/5/24), as well as a bank account held at Credit Suisse, which had come to light in 2021 and ought to form part of the estate for purposes of distribution. She further averred that under the confirmed grant, the estate had been distributed in equal shares among the three children of the deceased, and that following the death of Robert Joseph Baker, his one-third share ought to devolve jointly to his two daughters, while the remaining shares should be retained by the surviving daughters.
7. In the premises, the applicant prayed that the grant issued to the late Purvis Kara Baker be revoked; that she together with Mackenzie Ann Baker be appointed as administrators of the estate; that the list of beneficiaries be amended to reflect the correct names and the inclusion of the

grandchildren of the deceased; and that the estate be redistributed in accordance with the original intention of equal distribution among the deceased's children, subject to the substitution of the deceased beneficiary by his issue. She concluded by affirming that the contents of the affidavit were true to the best of her knowledge, information and belief.

8. The application is unopposed

Determination

9. I have carefully considered the application, the supporting affidavit on record, and the material placed before the Court. The principal issues arising for determination are whether the grant issued to the late Purvis Kara Baker has become useless and inoperative; whether the applicants ought to be appointed as administrators in place of the deceased administrator; and whether the rectification of the beneficiaries and redistribution of the estate as proposed is merited.

10. It is not in dispute that the grant of letters of administration in respect of the deceased estate was issued to Purvis Kara Baker on 11th May 1987 and confirmed on 13th November 1987. It is further not contested that the said administrator subsequently died on 21st February 2018.

11. Where a sole administrator dies, the grant issued to such administrator becomes incapable of execution and is rendered useless and inoperative. This position finds statutory anchorage under section 76(e) of the Law of

Succession Act, which empowers the Court to revoke a grant where, through subsequent circumstances, it has become inoperative. In the present case, the death of the sole administratrix has effectively stalled the administration of the estate, and there is therefore sufficient basis for revocation of the grant.

12. With regard to the appointment of new administrators, the applicants, being beneficiaries of the estate and direct descendants of the deceased, rank in priority under section 66 of the Law of Succession Act. There has been no opposition to their appointment, and nothing has been placed before the Court to suggest that they are unsuitable. The Court is therefore satisfied that the appointment of Paula Mynan Bagshaw and Mackenzie Ann Baker as joint administrators of the estate is justified and in the best interests of the proper administration of the estate.
13. On the issue of amendment of the list of beneficiaries, the evidence placed before the Court demonstrates that the original grant contained errors in the names of certain beneficiaries and did not reflect subsequent changes in circumstances, including change of names and the death of one of the beneficiaries, Robert Joseph Baker. The Court is satisfied that the corrections sought are not only clerical in nature but are necessary to ensure that the record accurately reflects the true beneficiaries of the estate.

14. Further, it is now settled that where a beneficiary dies before distribution, his or her share devolves to his or her estate or issue, in accordance with the principles of representation. In the present case, the evidence shows that the share of the late Robert Joseph Baker ought to devolve to his daughters, Kendra Lynn Baker Truitt and Mackenzie Ann Baker, jointly.

15. The Court has also considered the proposed mode of distribution. The confirmed grant provided for equal distribution of the estate among the three children of the deceased. There being no evidence of any intention to depart from that mode of distribution, and taking into account the death of one of the beneficiaries, the Court is satisfied that the proposal that the estate be distributed in three equal shares, with the share of the late Robert Joseph Baker devolving jointly to his two daughters, is fair, lawful, and consistent with the original intent of the distribution.

16. In the circumstances, the Court finds merit in the application and allows the prayers sought.

17. Accordingly, I make the following orders:-

a) The grant of letters of administration issued to Purvis Kara Baker on 11th May 1987 and confirmed on 13th November 1987 is hereby revoked.

b) Paula Mynan Bagshaw and Mackenzie Ann Baker are hereby appointed as joint

administrators of the estate of the late Kenneth Robert Baker (deceased).

- c) The list of beneficiaries is hereby amended to reflect the correct names and to include Consuelo Smykal Peterson, Paula Mynan Bagshaw, Mackenzie Ann Baker, and Kendra Lynn Baker Truitt.**
- d) The estate shall be distributed in equal shares as previously ordered, with one-third (1/3) to Consuelo Smykal Peterson, one-third (1/3) to Paula Mynan Bagshaw, and one-third (1/3) to be vested jointly in Kendra Lynn Baker Truitt and Mackenzie Ann Baker as the beneficiaries of the share of the late Robert Joseph Baker.**
- e) The administrators shall also take into account the bank account held at Credit Suisse, for purposes of administration and distribution.**
- f) The estate is confirmed.**

Orders accordingly.

**DATED and DELIVERED at NAIROBI this 19th day of March
2026**

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**E.K. OGOLA
JUDGE**

In the presence of:

Ruling
Succession Cause No. 216 of 1987

M/s Mosoti..... for
the Applicant
Gisiele Muthoni Court Assistant

ORIGINAL