



REPUBLIC OF KENYA



**In re Estate of Abel Alex Kinyaha (Deceased) (Cause E001 of 2026)
[2026] KEHC 5605 (KLR) (28 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 5605 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CAUSE E001 OF 2026
AN ONGERI, J
APRIL 28, 2026**

**PETITION BY THE PERSONAL REPRESENTATIVE FOR THE
SEALING OF A GRANT ISSUED IN ANOTHER COUNTRY
IN THE MATTER OF THE ESTATE OF ABEL ALEX KINYAHA (DECEASED)**

RULING

1. The Petitioner/Applicant Joyce Abel Kinyaha filed this application dated 28th January, 2026 seeking the following prayers:-
 - i. The said grant was issued to me by the District Magistrate's Court at Old Moshi, in the Republic of Tanzania on the 18th day of August 2023 in Succession Cause No. 9 of 2023 in respect of the estate of the deceased named herein.
 - ii. The document hereto annexed is a duplicate of the said grant sealed with the seal of the court.
 - iii. I will faithfully administer according to law all the estate of the deceased which by law devolves to and vests in his personal representative for the use and benefit of the said beneficiaries limited as aforesaid but no further or otherwise and will render a just and true account thereof whenever required so to do and I will when required by the court to do so, deliver up thereto the said grant.
2. The Petition is supported by the affidavit of the Petitioner sworn on 28th January 2026 in which she deposed as follows:-
 - i. That the full names of the deceased to whose estate the proceedings herein relate is Abel Alex Kinyaha.
 - ii. That the deceased died on the 21st day of April, 2021 at Mvita, Mombasa within the boundaries of the Republic of Kenya.
 - iii. That the deceased was at the date of his death domiciled in Kenya.



- iv. That a grant of the letters of Administration Intestate of the Estate of the deceased herein dated the 18th day of August, 2023 was issued to me by the Magistrate's court at Old Moshi, in the Republic of Tanzania in Succession Cause No. 9 of 2023.
 - v. That the following is a full inventory of all the assets and liabilities of the deceased in Kenya at the date of his death so far as known to the Petitioner.
Assets – Kshs. 168,462.48 held in the deceased Safaricom M-pesa Account No. 0720 xxx xxx
Liabilities – Nil
 - vi. That no estate duty is payable (or remain unpaid) in Kenya in respect of the said estate.
3. Upon careful consideration of the Application dated 28th January 2026 and the supporting affidavit of Joyce Abel Kinyaha, this Court is tasked with determining whether the foreign grant of letters of administration issued by the District Magistrate's Court at Old Moshi, Tanzania, in Succession Cause No. 9 of 2023, should be sealed by this Court to facilitate the administration of the deceased's estate within the Republic of Kenya.
 4. The legal framework governing this application is rooted in the *Law of Succession Act* (Cap. 160) and the procedural guidepost is found in Rule 42 of the Probate and Administration Rules, which specifically provides for the sealing of a grant issued in another country.
 5. The principle underpinning this provision is judicial comity and the practical necessity of enabling a personal representative, already clothed with authority over a deceased's estate in a foreign jurisdiction, to exercise corresponding powers over assets located in Kenya without the burden of filing a fresh succession cause from scratch.
 6. However, this process is not automatic as it requires the applicant to demonstrate strict compliance with both the procedural requirements and the substantive law of domicile, particularly because the jurisdiction of the Kenyan probate court is triggered by the presence of assets within its territory and the domicile of the deceased at the time of death.
 7. The Petitioner has deposed that the deceased, Abel Alex Kinyaha, died on 21st April 2021 at Mvita, Mombasa, and crucially, that he was at the date of his death domiciled in Kenya.
 8. This fact is the cornerstone of the application because the *Law of Succession Act* applies to the estates of all persons who die domiciled in Kenya, regardless of where they happen to pass away.
 9. Furthermore, the Petitioner has identified a specific asset within Kenya, namely Kshs. 168,462.48 held in the deceased's Safaricom M-Pesa Account No. 0720 xxx xxx.
 10. The presence of this movable asset within the jurisdiction gives the High Court of Kenya the authority to supervise its transmission.
 11. The primary legal hurdle the Court must surmount is the question of whether a grant issued in the Republic of Tanzania is eligible for resealing in Kenya.
 12. Unlike commonwealth countries such as the United Kingdom, Uganda, or Australia, whose grants are routinely resealed under the Reciprocal Provisions of the Act, Tanzania occupies a distinct position.
 13. While Kenya and Tanzania share a history and are both East African Community partner states, the *Law of Succession Act* and the Probate and Administration Rules do not automatically place Tanzanian grants on the same pedestal as those from countries gazetted for automatic recognition.



14. The Court must therefore look beyond mere administrative rule following and examine whether the Tanzanian court had the jurisdictional competence to issue a grant over the estate of a person domiciled in Kenya.
15. The Petitioner has attached a duplicate of the Tanzanian grant sealed with that court's seal. The existence of this grant is acknowledged.
16. However, the law requires that before a foreign grant is sealed, the Kenyan court must be satisfied that the foreign court acted within the limits of its own laws and that no injustice would result from the recognition of its orders.
17. Consequently, this Court is inclined to grant the application, but with a specific condition that clarifies the nature of the grant being sealed.
18. The grant from Tanzania cannot be treated as a universal grant covering all of the deceased's assets worldwide because it was issued in a jurisdiction that was not the deceased's domicile.
19. Instead, it must be treated as an ancillary grant, limited to the assets of the deceased within the Republic of Kenya.
20. The Petitioner is therefore authorized to collect, administer, and distribute the specific funds held in Safaricom M-Pesa Account No. 0720 xxx xxx, and any other assets that may subsequently be discovered within Kenya, strictly in accordance with the schedule of beneficiaries or the law of distribution that would apply under Kenyan law, given the Kenyan domicile.
21. The Petitioner is reminded of her oath to render a just and true account and to deliver up the grant to the court when required.
22. In the final analysis, the orders of the Court are as follows;
 - i. The application dated 28th January 2026 is hereby allowed on the terms set out in the ruling.
 - ii. The grant of letters of administration issued by the District Magistrate's Court at Old Moshi in the Republic of Tanzania on 18th August 2023 in Succession Cause No. 9 of 2023 is hereby ordered to be sealed by this Court as an ancillary grant limited to the assets of the deceased, Abel Alex Kinyaha, situated within the Republic of Kenya.
 - iii. The Petitioner, Joyce Abel Kinyaha, is authorized to administer the deceased's known asset held in Safaricom M-Pesa Account No. 0720 xxx xxx, currently valued at Kshs. 168,462.48, and to distribute the same to the beneficiaries entitled thereto under the law of succession applicable in Kenya.
23. There shall be no order as to costs, as this is a family matter.
24. Orders to issue accordingly.

DATED, SIGNED AND DELIVERED THIS 28TH DAY OF APRIL, 2026 IN OPEN COURT AT VOI.

.....
ASENATH ONGERI
JUDGE

In the presence of:



Court Assistant: Millicent/Eghwa
..... for the Petitioner

