



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**In re Estate of Veronica Juma Ombedho (Deceased) (Succession Cause 120 of 2016) [2025] KEHC 1277 (KLR) (28 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1277 (KLR)

**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT SIAYA**

**SUCCESSION CAUSE 120 OF 2016**

**DK KEMEL, J**

**FEBRUARY 28, 2025**

**IN THE MATTER OF THE ESTATE OF VERONICA JUMA OMBEDHO (DECEASED)**

**BETWEEN**

**LOICE AYIETA CHORA ..... OBJECTOR**

**AND**

**BELDINA ACHIENG OTIENO ..... ADMINISTRATOR**

**AND**

**IGNATIUS OWUOR OTIENO ..... INTERESTED PARTY**

**(PURSUANT TO SECTIONS 76 LAW OF SUCCESSION ACT, RULE 44 OF THE PROBATE AND ADMINISTRATION RULES)**

**RULING**

1. The Applicant /Objector herein has brought an application under section 76 of the [Law of Succession Act](#) Cap 160 Laws of Kenya, and under Rule 44 of the Probate and Administration Rules. The said application is dated 10<sup>th</sup> August 2023 and supported by an affidavit bearing the same date sworn by Loice Ayieta Chora-the applicant. The application seeks the following orders:
  - i. That pending the hearing and determination of the Summons of Revocation of grant herein the Honorable court do direct that the rent and any proceeds emanating from the land parcel No. Siaya/Ugunja Trading Centre/7 be deposited in this Honorable Court.
  - ii. That the grant of letters of administration intestate to the estate of Veronica Juma Ombedho(deceased) issued to Beldina Achieng Otieno on 11<sup>th</sup> March 2011 and confirmed on 5<sup>th</sup> May 2011 be revoked; and any subsequent registrations/transfers on the suit properties Siaya/Ugunja Trading Center/7; South Ugenya /Ambira 1775 and South Ugenya /Ambira 1776 be nullified.



- iii. That this court be pleased to issue fresh letters of administration to the estate of the deceased Veronica Juma Ombedho to Loice Ayieta Chora.
- iv. That costs of this application be borne by the Respondent.
2. This application is supported by the grounds on the supporting affidavit of Loice Ayieta Chora inter alia: that the Administrator acted with fraud and material non-disclosure when she was applying for the grant to the deceased's estate; that the Administrator has since died.
3. The Interested party filed his replying affidavit dated 21<sup>st</sup> September 2023 opposing the said application for revocation wherein he averred inter alia; that the administrator to the deceased's estate was Beldina Achieng Otieno and not him as he was merely an heir; that the deceased Veronica Juma Ombedho was only survived by Beldina Achieng Otieno; that the Applicant herein is neither a child to the deceased whose estate is the subject of these proceedings nor a party who by order of consanguinity would be entitled for appointment as an administrator, heir or beneficiary to the estate of the deceased; that the instant application is res judicata having already been ventilated vide application dated 25<sup>th</sup> April 2022 and 1<sup>st</sup> September 2022 and determined vide court orders dated 10<sup>th</sup> May 2022 and 3<sup>rd</sup> April 2023; that the party against whom the orders are sought is since deceased; that the Applicant is fond of filing vexatious applications including the previous applications, and despite clear court directions and guidance, she still went ahead to file the instant application which is a nullity and unnecessary and a waste of judicial time thus she should be condemned to pay costs of the instant application upon its dismissal.
4. The application was canvassed by way of written submissions. Both parties duly complied.
5. On the part of the Applicant, she submitted that the interested party benefited from the deceased's estate at the exclusion of all other dependants within the meaning of section 29 of the [Law of succession Act](#).
6. She submitted further that the succession cause relates to the estate of Veronica Juma Ombedho who had three children, namely Rosemary Otieno Auma, Beldina Achieng Otieno and Cosmas Odhiambo. That Rosemary Otieno Auma died without children thus no one under her lineage claims in the deceased estate. That Beldina Achieng Otieno the Administratrix also died and was survived by four children namely Eunice Atieno Odhiambo, Kennedy Otieno Odhiambo, Joseph Omondi Odhiambo and Ignatius Owuor Odhiambo all of whom are rightful dependants to the deceased's estate. That Cosmas Odhiambo also died and was survived by his wife Loice Ayieta Chora (the Applicant herein) and three children namely Martin Opiyo Odhiambo, Maurice Odhiambo and Joseph Otieno Odhiambo all of whom are rightful dependants to the deceased's estate.

The Objector/Applicant prayed that the application be allowed.

7. The Interested party submitted that that the matter is res judicata. It was also submitted that the Objector/Applicant confirms that the Administratrix Belinda Achieng Otieno has since died but still went ahead to sue her in these proceedings instead of filing a suit against her estate. It was further submitted that vide orders of Aburili J dated 10/5/2022, the Applicant's application dated 25/4/2022 was struck out on the basis that a similar summons for revocation of grant had been dealt with by Makau J on 16/12/20216. Learned counsel urged this court to dismiss the application with costs.
8. I have given due consideration to the application, affidavits and submissions filed by the parties. It is not in dispute that the Administratrix has since died prior to the filing of the present application and that there is no evidence of any move by the Applicant or any other member of the family of the deceased to seek to come on board as an administrator. It is also not in dispute from the records that a



similar summons for revocation of grant dated 15/10/2012 was dismissed by Makau J on 16/12/2016. It is also not in dispute that a further summons for revocation of grant dated 23/4/2022 was struck out on 10/5/2022. It is not in dispute that vide the ruling of Aburili J dated 3/4/2023 the Objector's summons for revocation of grant remain struck out and that the Applicant was at liberty to file an appropriate application for consideration by the court on merit. It is also not in dispute that the Objector/Applicant has not made any application seeking for review of orders earlier on made by this court and has further not addressed herself on the crucial issue of the death of the Administratrix. That being the position, I find that the only issue for determination is whether the application has merit.

9. A perusal of the court file herein reveals that this matter has a chequered history wherein the Objector made several applications against the now deceased Administratrix with a view to having the grant revoked and the estate of the deceased shared equitably among the deceased's dependants. However, it seems the Applicant has not heeded to the directions issued by the court. The Applicant's summons having been dismissed and or struck out, she could only seek to have the orders reviewed or proceed on appeal. Alternatively, she could come up with an application seeking to be made an administrator in place of the deceased Administratrix and thereafter deal with the estate as appropriate. She has done none of the above. As long as the above state of affairs is still in force, the Objector/Applicant's application dated 10/8/2023 becomes a cropper. I find the present application is already res judicata in view of the fact that the same had already been dealt with. I need not belabor this point as it is clear from the court record and that the Applicant is fully aware of the same.
10. In view of the foregoing observations, it is my finding that the Objector/Applicant's application dated 10/8/2023 lacks merit. The same is dismissed with no order as to costs.

Orders accordingly.

**DATED AND DELIVERED AT SIAYA THIS 28<sup>TH</sup> DAY OF FEBRUARY, 2025.**

**D. KEMEI**

**JUDGE**

In the presence:

Opiyo.....for Objector/Applicant

N/A for Makokha.....for Interested Party

Ogendo.....Court Assistant

