



**In re Estate of the Late Francis Okeyo Nyagetiria (Succession Cause
543 of 2010) [2025] KEHC 3867 (KLR) (27 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3867 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISII
SUCCESSION CAUSE 543 OF 2010**

TA ODERA, J

MARCH 27, 2025

**IN THE MATTER OF THE ESTATE OF THE LATE FRANCIS OKEYO NYAGETIRIA
IN THE MATTER OF THE LETTERS OF ADMINISTRATION AD LITEM UNDER
SECTION 54 AND THE 5TH SCHEDULE OF THE LAW SUCCESSION ACT**

**IN THE MATTER OF
SAMWEL MAXWELL MARONGA PETITIONER
AND
PATRICK ONGERI MARONGA OBJECTOR**

RULING

Introduction

1. The Applicant/Objector herein filed an Application dated 13th August, 2024 under section 76 of the succession Act and Rule 44 of the Probate and Administration Rules seeking to have the grant ad litem issued to the respondent herein on 8th December, 2023 revoked as well as costs of the Application.
2. In support of the Application the applicant averred that the grant ad litem was obtained by or through non-disclosure of facts to the court. He averred further that the Lady Justice Rose Ougo revoked a similar ad litem (earlier issued to the Applicant vide her ruling delivered on 16th July, 2023). He averred further that Lady Justice Rose Ougo at paragraph 22 of her Ruling directed any party herein who is of the opinion that he is the proper party to administer the estate of the deceased to petition for grant of letters of administration as provided by the law. He contended that the Applicant should have filed for full grant if he deems himself as the proper person entitled to apply for letters of administration of the estate of the Francis Okeyo Nyagetiria, the deceased herein. He contended further that this court having revoked the ad-litem grant herein cannot reissue it.
3. In response the Respondent filed a replying Affidavit dated 27th September 2024 wherein he averred that the Application is bad in law and incompetent as it is based on a misinterpretation of the ruling



of the court delivered on 16th August, 2024. He contended that the Lady Justice Rose Ougo only dealt with the procedural aspects of obtaining the grant of administration by consolidating succession cause 445 with this cause to avoid multiple causes in respect of the same estate of Francis Okeyo Nyagetiria, deceased. He contended that the trial court did not revoke the grant of letter issued to him on the basis that he was not entitled as alleged by the Applicant. He stated that in the Application that was the subject of the ruling was only the Applicant was seeking to be enjoined to the succession causes in respect of the estate of the late Francis Okeyo Nyagetiria. He contended that the Justice Ougo gave directions on how to apply for grant which he followed for fresh letters of letters of administration.

4. During the hearing of the Application on 29th October, 2024, this court directed that the Application be disposed of by way of written submissions. Both the parties filed their submissions wherein they have reiterated the averments in their Affidavits which I have summarized hereinabove

Determination.

5. Having considered the Application, the response thereto and the submissions filed by the parties I find that the sole issue for determination is whether the letters of Administration issued to the respondent on 8th December, 2023 should be revoked.
6. From the proceedings before me, it is outright that this instant file (54 was commenced vide an application filed by the late Nyamwamu Inchiniah Nyagitiria and Sarah Jaica Maronga who jointly sought for letters of administration ad litem in respect of the estate of the late Francis Okeyo Nyagetiria. The grant was eventually granted. However, this court vide a ruling delivered on 16th August, 2023 revoked the said grant for the reasons that two had since died. The said grant was revoked together with other grants ad litem obtained by the Applicant herein in respect to file 445 of 2015 and that obtained by Samson Masonga in respect to file 315 of 2010 for reasons that filing three applications in respect of one estate amounted to an abuse of the court process.
7. Clearly the grant having been revoked, this file stood closed and the same could not be revived through a fresh application for grant of letters of ad litem. I note an error apparent in the ruling of my sister Justice Ougo wherein she directed the parties to proceed with file 543 2010 even after revoking the grant issued to the Applicants therein whom she noted had already died. Therefore, as correctly submitted by the Applicant argued the respondent that this misled the court into granting him fresh letters of administration ad litem in respect of a file that had been closed.
8. Further, as I have noted hereinabove, the respondent limited grant in respect to file 445 of 2015 was revoked. His limited grant having been revoked by this court he could not again appear in this court with a fresh Application to be re-issued with another limited grant. My sister Justice Ougo did advice the parties herein to proceed and file for a full grant of letters administration. I do not really understand why the Applicant sought for another limited grant herein. In any event letters of administration ad litem are limited and temporary by nature and Section 54 of the [Law of Succession Act](#) does not envisage that the Limited grants are to last for eternity. Even where full grants of representation are issued, administration must be completed within 6 months and the file is closed. The first grant ad litem herein was issued herein on 18. 11.2010 and the respondent was expected to take out letters of administration within a reasonable time from that date. The grant ad litem herein is clearly an abuse of the court process which this court would not entertain at all cost. The Applicant's Application is hereby allowed and the letters of administration ad litem issued to the respondent on 8th December, 2023 by this court be and are hereby revoked under Section 76 (c) and (e) of the [Law of Succession Act](#). I once again direct that this file be closed and be forwarded to National Archives for safe custody.
9. The Applicant shall have costs of his Application.



**DELIVERED IN OPEN COURT AT KISII IN THE PRESENCE OF
T.A ODERA
JUDGE**

27. 3.25

Court Assistant - Oigo

Parties - Absent.

