



REPUBLIC OF KENYA



In re Estate of Enock Lichoti Murumwa (Deceased) (Succession Cause 69 of 2005) [2025] KEHC 5347 (KLR) (29 April 2025) (Ruling)

Neutral citation: [2025] KEHC 5347 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
SUCCESSION CAUSE 69 OF 2005
SC CHIRCHIR, J
APRIL 29, 2025**

IN THE MATTER OF THE ESTATE OF ENOCK LICHOTI MURUMWA (DECEASED)

BETWEEN

DORCAS SHILWATSO LIJODI (DECEASED) PETITIONER

AND

ALFRED LUVEMBE LICHOTI APPLICANT

RULING

1. The proceedings herein relate to the estate of Enock Lichoti Murumwa. Upon his demise, his widow, one Dorcas Shilwatso Lijodi (now also deceased) was appointed an Administrator of the Estate.
2. The Applicant has brought the Chamber summon dated 1/9/2023, seeking orders as follows;
 1. That the petitioner Dorcas Shilwatso Lijodi be substituted by the applicant Alfred Luvembe Lichoti.
 2. That upon granting prayer 1 an amended Grant of Administration be issued in the names of Alfred Luvembe Lijodi.
 3. That LR Nos Isukha/Virembe/1716, 1717, 1718, 1719, 1720, 1721 or any other registration in respect to the deceased estate be cancelled and the same be reverted to the original LR Nos Isukha/Virembe/805
 4. That thereafter this cause be listed for confirmation afresh for proper distribution of the deceased estate.
 5. That costs be in the cause.
3. It is the Applicant 's Case that the Administrator of the estate has since died. He has attached burial permit Serial No. DA 19XXX35 showing the name of the deceased as Dorcas Shilwatso. He further



states that he and his brother, one Patrick Mwangi Lichoti were not involved in the confirmation proceedings; that he was just handed over a title deed for his share of the land. He further states that he and his brother have not been able to peacefully occupy their allocated parcel due to harassment by Geoffrey Atsaya, his brother. He finally states that Patrick's land has not been demarcated and therefore has not been in a position to ascertain the acreage of his portion.

4. The summons was not opposed.

Analysis and determination

5. I have considered the prayers sought. when this application came up for hearing on 9/10/2023, the Applicant was directed to file a consent from the rest of beneficiaries authorizing him to substitute the deceased's Administrator.
6. I have seen a "consent" filed on 11/11/2024, signed by two other beneficiary and the Applicant herein. The "consent" is not really a consent authorizing the Applicant; because that is not what it states. I further note that since the said direction was given, there was an Advocate that came on record on behalf of the Applicants. There is no excuse therefore why a proper consent was not filed.
7. Further there is no evidence that the Applicant has obtained the right of legal representative over the Estate of the deceased's Administrator. However, I am of the view that a consent from the rest of beneficiaries would have sufficed for purposes of the Administration of the deceased's estate.
8. In the circumstances there is not basis upon which, this court can appoint the Applicant as the Administrator of the deceased's estate.
9. Nevertheless, there is evidence that the Administrator, Dorcas Shilwatso Lijodi has since died. under Section 76 of the *Law of Succession Act*, the court can revoke a Grant either on its own motion or on application of a party. One of the grounds of revocation is whether a Grant has become inoperative or useless. It is now settled that the death of an Administrator renders a Grant useless or inoperative and can be revoked on that ground.
10. Accordingly, the Grant herein is revoked on account of the deceased's Administrator. It is upon the beneficiaries if there is still a need to, to present new names for appointment, to take the place of the deceased Administrator. A mention date will be given during the delivery of this ruling to confirm compliance with this direction, including whether there is still a need for an Administrator, or whether the Administration of the estate has been completed.
11. As regards prayer 3 of the Application, there are no valid grounds that have been advanced for this court to cancel the title. Although the Applicant says he was not present during confirmation proceedings, he has not complained that there was any unfairness in the manner of distribution. He admits that he and his brother Patrick have duly received their title deeds.
12. In deed attached to the Applicant's Affidavit are copies of the said Titles. It is evident that the Applicant is now the owner of title No. ISukha/Virembe/1718 and his brother Patrick, is the registered owner of Isukha/Virember/1717. Both parcels are part of the sub-division of parcel No. Isukha/Virembe/805. If the Applicant has no complaint about the mode of distribution then his mere absence during the confirmation proceedings is not a ground of cancellation of the distribution.
13. Finally, the Applicant has complained that he and his brother Patrick are unable to peacefully occupy their allocated portion due to them harassment by their brother(s). The above issue has nothing to do with distribution of the estate.



14. The demarcation of the boundaries is not a reason to cancel the distribution either. The applicant only needs to seek the services of a surveyor and if necessary, seek for an order for police supervision during the exercise.
15. In the end the entire application is unmerited. It is hereby dismissed.
16. This matter will be mentioned on a date to be given during the delivery of this Ruling in terms of paragraph *10* of this Ruling.

DATED, SIGNED AND DELIVERED VIRTUALLY, AT ISIOLO, THIS 29TH DAY OF APRIL, 2025

S. CHIRCHIR

JUDGE.

In the presence of:

Godwin Luyundi- Court Assistant

Ms. Nafuye for the Applicant.

