



**In re Estate of Wasere Ogasia Omanje (Deceased) (Succession Cause 9 of 2023) [2025] KEHC 4845 (KLR) (25 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4845 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
SUCCESSION CAUSE 9 OF 2023  
DK KEMEL, J  
APRIL 25, 2025  
IN THE MATTER OF THE ESTATE OF  
WASERE OGASIA OMANJE(DECEASED)**

**BETWEEN**

**RICHARD OKETCH UMANI ..... PETITIONER**

**AND**

**ROBERT OTIENO OMANJE ..... OBJECTOR**

**RULING**

1. The matter has had a chequered history. It had started in Kisumu High Court where the Petitioner herein had filed for letters of grant of administration and had proceeded to the point where he obtained a certificate of confirmation of grant and thereafter had himself registered as sole proprietor of land parcel number North Gem/Lundha/XXXX. The objector herein later moved the court to revoke the grant and certificate of confirmation of grant that had been issued to the petitioner. Justice Kamau heard the matter viva voce and came up with a verdict dated 27/6/2023 wherein she ordered the grant of letters of administration issued to the Petitioner revoked and further set aside or vacated the certificate of confirmation of grant. The learned Judge further directed the parties to provide their separate schedules of the deceased's beneficiaries if any, to enable the court exercise its discretion as to the persons to whom a grant of letters administration to the deceased's estate will be issued as provided for under Section 66 of the *Laws of Succession Act*. the learned Judge finally ordered the matter to be transferred to this court for final determination. The objector subsequently filed an application dated 30/1/2024 seeking for an order to compel the Chief of North Gem Location to write an introductory letter and indicate the beneficiaries of the estate. This court vide its ruling dated 30/10/2024 directed the parties herein to proceed and furnish the names of the beneficiaries of the estate pursuant to the orders of Kamau J.



2. The Petitioner herein gave a detailed chronology of the family tree of the deceased *inter alia*; that the deceased herein Wasere Ogasia Omanje and Late Mama Bando Nyairo; that his brother was Jason Omanje Ogasia; that his cousin is Kamlus Aketch Umani who was a son of Umani Achieng; that the deceased had two wives namely Paskalia Obonyo Wasere (deceased) and Janipha Ogutu Odongo (deceased); that the deceased did not have a child; that the objector herein Robert Otieno Omanje is the son of Jason Omanje Ogasia while the Petitioner herein is the son of Kamlus Aketch Umani; that the Objector's father was a brother of the deceased herein while the Petitioners' father was a first cousin of the deceased; that both the Objector and Petitioner are nephews of the deceased; that the Objector and Petitioner are the only surviving beneficiaries of the deceased; that land parcel North Gem/Lundha/XXXX was left to the Petitioner by the deceased and that the Petitioner later cleared a loan that had been borrowed by the deceased from KCB Bank and then discharged the charge; that the Objector's father Jason Omanje Ogasia owned parcel North Gem/Lundha/XXXX which was taken over by the Objector herein.
  
3. The Objector filed a list of beneficiaries dated 13/12/2024 wherein he has presented the deceased's family tree as follows:
  - Wasere Ogasia Omanje
  - Jason Omanje Ogasia – Son (deceased)
  - Grand Children
  - Richard Omanje Ogasia – grandson (deceased)
  - Joseph Ochieng Omanje – (Deceased)
  - Robert Otieno Omanje – Petitioner (alive)
  - Risper Achieng Omanje – Granddaughter (deceased)
  - Pamela Adhiambo Omanje (deceased)
  - Alquin Atieno Omanje (deceased)
  - Great Grandchildren
  - Ibrahim Odhiambo Omanje (deceased)
  - Isaiah Omondi Otieno (alive)
  - Margaret Atieno Otieno (alive)
  
4. I have perused the list of the deceased's family tree and note that most of them are deceased. The Petitioner and Objector are indicated as nephews of the deceased. It is not in dispute that the deceased had no children and that his parents had already predeceased him. If that was the position, then it was the deceased brothers and sisters who would be next in line to take out letters of grant of administration intestate. Further, if the brothers and sisters were all deceased, then the half-brothers' and half-sisters but again all these had passed on. Then the next in line would have been the children of the half-brothers and half-sisters. If all these are dead then any of the relatives who are nearest in consanguinity with the deceased upto the sixth degree. All these issues were aptly captured by Kamau J, in a ruling dated 27/6/2023.
  
5. From the two sets of the family trees availed by the Petitioner and the Objector, I find that the Petitioner and the Objector appear to be within the degree of consanguinity and that they are best placed to gather the assets of the deceased and distribute the same to his beneficiaries. As the grant issued herein



has been revoked, it is appropriate that a fresh grant be issued to the Petitioner and Objector and who will be expected to file the requisite summons for confirmation of grant so that the court can finally distribute the estate of the deceased to the rightful beneficiaries.

6. In the result, I make the following orders:

- i. A fresh grant be and is hereby issued in the names of Richard Oketch Umani and Robert Otieno Omanje.
- ii. All titles issued and all emanating from LRNo. North Gem/Lundha/XXXX are hereby ordered cancelled and that the title be reverted back in the name of the deceased herein Wasere Ogasia Omanje for distribution to beneficiaries.
- iii. The two Petitioners herein are directed to file fresh summons for confirmation of grant within 14 days of issuance of the fresh grant.
- iv. The matter is fixed for mention on 15/5/2025 to confirm compliance and for further orders.
- v. As parties are members of one family, each party to bear their own costs.

**DATED AND DELIVERED AT SIAYA THIS 25<sup>TH</sup> DAY OF APRIL, 2025.**

**D. KEMEI**

**JUDGE**

In the presence of:

N/A Korongo.....for Petitioner

Otieno.....for Objector

Mboya.....Court Assistant

