



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Opwaka Osore Chisaka (Deceased) (Succession Appeal
E010 of 2021) [2025] KEHC 7477 (KLR) (29 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7477 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
SUCCESSION APPEAL E010 OF 2021**

PJO OTIENO, J

MAY 29, 2025

IN THE MATTER OF THE ESTATE OF OPWAKA OSORE CHISAKA (DECEASED)

BETWEEN

ALPHONCE OSORE APPELLANT

AND

FLORA AUMA OPWAKA RESPONDENT

RULING

1. On 16th February, 2023, this Court gave directions to the effect that any child of the deceased who has since died but left behind a spouse or children be represented by such spouse or children as shall be agreed by the family and thereafter file affidavits in that regard.
2. From the records, both Gladys Bwire Masai and Flora Auma Opwaka respectively, filed affidavits sworn on 11th August, 2023 and on an undisclosed date as directed by the court. Both affidavits do not however, exhibit consent on their terms and proposals from the other family members.
3. The affidavit of Gladys Bwire Masai lists the deceased's children of the 1st wife, Helen Apondi Opwaka, as follows;
 - a. Paul Masai Opwaka (deceased) survived by;
 - i. Gladys Bwire Masai (Wife)
 - ii. Alphonce Osore
 - iii. Martin Shikuku
 - iv. Silvestor Otieno
 - b. Christopher Masai (Deceased) survived by Mary Awino (wife) and children



- c. Macdaline Anyango (Deceased) survived by two children namely Mary Awino and Allan Ochieng’.
 - d. Joseph Ochieng’ Obwaka (Deceased) survived by Rosemary Ochieng’ (wife) and children
 - e. Lieba Okinyo (Deceased) with no beneficiary
 - f. Philistine Awuor (Deceased) with no beneficiary
4. The deponent then affirms that she sat with the other members of the first house and agreed that the 50% share in S. Wanga/Bukaya/653 be transmitted to her on behalf of her children while the share in S. Wanga/Bukaya/653 be transmitted to Rosemary Ochieng, on behalf of her children.
 5. On her part, Flora Auma Opwaka also filed an affidavit disclosing that she had seven children with the deceased, five sons and two daughters, who are now all adults and alive. She asserted that the daughters have renounced their inheritance, preferring that the household’s share from the estate go to the sons in whole. The deponent proposes that her household’s share goes to the boys to share equally. The court has equally read the two affidavits sworn by the two daughters; Jennipher Necheza and Consolata Atieno, and is satisfied that they have renounced their rights to inherit from the estate.
 6. There having been a distribution between the two houses, the task of the court in this determination is merely to direct transmission in a clear and unambiguous manner.
 7. There being no dispute within the two household, the court directs that the estate be now transmitted as follows: -

South Wanga/Bukaya/653

- a. Gladys Bwire masai, for her life interest and in trust for her children with Paul Masai Opwaka, (deceased), in equal shares;
 - i. Alphonse Osore
 - ii) Martin Shikuku
 - iii) Silvester Otieno.....50%
- b.
 - i) Pus Osore Obwaka
 - ii) David Owino Obwaka
 - iii) James Chisaka Obwaka
 - iv) Raphael Mukoya Obwaka
 - benedict Onyango Obwaka.....50%; to share equally.

South/Wanga/Bukaya/660

- a. Rosemary Ochieng, for her life interest and in trust for her children with Joseph Ochieng Obwaka, (deceased), to shares equally;50%
- b.
 - i) Pus Osore Obwaka
 - ii) David Owino Obwaka



- iii) James Chisaka Obwaka
- iv) Raphael Mukoya Obwaka
- v) Benedict Onyango Obwaka.....50%; to share equally.

8. Let the administrators effect transmission of the estate within 90 days from today so that the matter is mentioned before court, on a date given at the time of delivery of this ruling, for parties to confirm completion of the cause and closure of the file.

9. There shall be no orders as to costs.

DATED AND SIGNED THIS 29TH DAY OF MAY, 2025.

PATRICK J O OTIENO

JUDGE

DATED, SIGNED AND DELIVERED AT KAKAMEGA, THIS 29TH DAY OF MAY, 2025.

S. MBUGI

JUDGE

In the presence of:

Mr. Anyona for the Respondent present online

Obwatinya for the Applicant absent

C/A: Agong'a

