



REPUBLIC OF KENYA



In re Estate of Habil Raburu Okudo (Deceased) (Miscellaneous Succession Cause E009 of 2023) [2024] KEHC 449 (KLR) (25 January 2024) (Ruling)

Neutral citation: [2024] KEHC 449 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS SUCCESSION CAUSE E009 OF 2023**

RE ABURILI, J

JANUARY 25, 2024

**IN THE MATTER OF THE ESTATE OF HABIL RABURU OKUDO
(DECEASED)**

AND

**IN THE MATTER OF APPLICATION BY VICTOR RAMOGI RABURU –
APPLICANT**

AND

IN THE MATTER OF AN OBJECTION BY WILLIAM SAMBA ODUK

AND

**IN THE MATTER OF APPLICATION FOR REVOCATION/CANCELLATION
OF THE TITLE TEED NO. KISUMU/MARERA/1149 BY WILLIAM SAMBA
ODUK – APPLICANT**

BETWEEN

WILLIAM SAMBA ODUK OBJECTOR

AND

VICTOR RAMOGI RABURU 1ST RESPONDENT

CHRISTOPHER OCHIENG RABURU 2ND RESPONDENT

WASHINGTON OLWENY RABURU 3RD RESPONDENT

LAND REGISTRAR KISUMU 4TH RESPONDENT



RULING

1. The application dated 15th November 2023 seeks for revocation of the grant as confirmed by this court wherein land parcel No. Kisumu/Marera/1149 was included in the assets of the deceased Habil Raburu Okudo and distributed to the beneficiaries of the estate upon which the beneficiaries caused the said land parcel to be registered in the name of Washington Olweny Raburu, Christopher Ochieng Raburu and Victor Ramogi Raburu to be shared equally.
2. The grounds upon which the application was predicated are that the said parcel of land was never registered nor belonged to the deceased Habil Raburu Okudo but was the land of Osango Oluoch who is also deceased and whose estate is being administered by the Applicant herein Willian Samba Oduk vide Maseno SPM Succession Cause No. E042 of 2022.
3. In the Replying Affidavit, the 1st Respondent Victor Ramogi Raburu deposes that his family occupied the suit land for over 30 years todate from 1979 and that indeed, the land was at the time of succession proceedings herein registered in the names of Osango Oluoch but that his counsel advised him to give a list of all properties of the deceased and that is how the land became part of the estate herein, which land was now transmitted to the Respondents herein.
4. There is concession in paragraph 9 of the Replying Affidavit of the respondents' deposition that the succession process was flawed by including in the assets, land which was registered in another person's name, not the deceased.
5. He urges the court to expunge from the succession cause the said land parcel No. Kisumu/Marera/1149 as confirmed, as the inclusion was erroneous, not meant to defraud or fraudulently acquire it or to prejudice anyone since they were in occupation thereof.
6. I must point out that this court, unlike the Environment and Land Court, has no jurisdiction to hear and determine land disputes relating to title to or occupation of land or even ownership thereof. This is a Succession Court. Any parties with issues of ownership, title to or occupation of land will go before the Environment and Land Court to resolve their dispute.
7. However, as a Succession Court and the concession that it was wrong to include into the assets of the deceased land parcel No. Kisumu/Marera/1149 which land belonged to Osango Oluoch, I find the application for revocation of grant meritorious.
8. I allow the application and make the following specific orders.
 1. That the grant issued to the 1st Respondent herein Victor Ramogi Raburu and confirmed on 16th September 2015 be and is hereby revoked and annulled.
 2. The confirmation of the said grant on 16th September 2015 is hereby set aside and vacated.
 3. The Registration of Land Parcel No. Kisumu/Marera/1149 into the names of Victor Ramogi Raburu, Christopher Ochieng Raburu and Washington Olwengh Raburu by way of transmission is hereby revoked, cancelled and annulled.
 4. The Land Parcel No. Kisumu/Marera/1149 is ordered to revert to the name of Osango Oluoch alias William Osango Oluoch.



The grant is hereby reissued to the administrator Victor Ramogi Raburu and confirmed. However, the schedule of distribution of the estate of the deceased Habil Raburu Okudo, Land Parcel No. Kisumu/Marera/1149 is hereby excluded.

6. This Ruling and Order to be served upon the Land Registrar, Kisumu for compliance in the cancellation of the Registration of Land Parcel No. Kisumu/Marera/1149 from and reverting of the Registration thereof to Osango Oluoch alias William Osango Oluoch.
7. Mention on 28th February 2024 to confirm compliance with this order and for closure of this file.
9. Each party to bear their own costs of the proceedings herein.
10. Ruling to be typed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 25TH DAY OF JANUARY, 2024

R. E. ABURILI

JUDGE

