



REPUBLIC OF KENYA



In re Estate of Francis Pamba Odulwa (Deceased) (Succession Cause 191 of 2015) [2024] KEHC 2986 (KLR) (22 March 2024) (Ruling)

Neutral citation: [2024] KEHC 2986 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
SUCCESSION CAUSE 191 OF 2015
WM MUSYOKA, J
MARCH 22, 2024**

IN THE MATTER OF THE ESTATE OF FRANCIS PAMBA ODULWA (DECEASED)

RULING

1. This matter relates to the estate of Francis Pamba Odulwa, deceased. He was survived by a widow, 10 sons and 3 daughters. He died possessed of Bukhayo/Nasewa/24.
2. There is consensus that Bukhayo/Nasewa /24 was ancestral land, and that the deceased was registered as proprietor thereof, on his own behalf and holding in trust for his siblings, Nang’oni Odulwa and Ongoro Odulwa. The initial administrator was Alfred Makokha Pamba, appointed on 28th July 2016, and holding a grant dated 30th August 2016. Subsequently, Africanus Wabwire Nang’oni and Francis Kaunda Ongoro were brought on board, and made joint administrators with Alfred Makokha Pamba, on 20th June 2023, and a grant was issued to them dated 4th July 2023. They came in to represent the interests of the estates of Nang’oni Odulwa and Ongoro Odulwa.
3. The summons for confirmation of grant, dated 1st November 2023, seeks to meet 2 objectives. One, to distribute the ancestral land as between the estates of the 3 brothers or siblings, and two, to distribute the estate of the deceased herein, amongst his widow and children.
4. As Bukhayo/Nasewa/24 was ancestral or family land, it is proposed that it be distributed equally between the 3 estates of the 3 brothers. That is in order. It captures the essence of Section 38 of the [Law of Succession Act](#), Cap 160, Laws of Kenya.
5. After that, it is proposed that the 1/3 share due to the deceased be shared out equally between his 1 widow and 13 children. That, again is in order, as it aligns to Section 35 (1)(5) and 38 of the [Law of Succession Act](#), except that the life interest that should go to the widow is this time replaced with a defined share.
6. Consequently, I shall make the following final orders:
 - a. that I hereby allow the application, dated 1st November 2023, and confirm the grant, dated 4th July 2023;



- b. that Bukhayo/Nasewa/24 shall be shared equally between the estates of the deceased herein, the late Nang'oni Odulwa and the late Ongoro Odulwa;
- c. that the share due to the estate of the deceased herein shall be thereafter be divided equally between his widow and his 13 children;
- d. that the shares due to the estates of the late Nang'oni Odulwa and Ongoro Odulwa shall devolve to the said estates, to be distributed in succession causes to be filed in the names of the 2 deceased persons;
- e. that a certificate of confirmation of grant shall issue accordingly; and
- f. that the matter shall be mentioned, after 6 months, to confirm whether the estate of the deceased herein will have been transmitted, to pave way for closure of this Court file.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT BUSIA THIS 22ND DAY OF MARCH 2024

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Were, instructed by Mr. Gabriel Fwaya, Advocate for the Administrator.

