



**In re Estate of the Late Tom Jandi Muhenge (Probate & Administration
171 of 2003) [2024] KEHC 3538 (KLR) (22 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 3538 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
PROBATE & ADMINISTRATION 171 OF 2003**

JRA WANANDA, J

MARCH 22, 2024

IN THE MATTER OF THE ESTATE OF THE LATE TOM JANDI MUHENGE

BETWEEN

BETWEEN

FRANCIS ESENA MUHENGE 1ST PETITIONER

DAVID C MUHENGE 2ND PETITIONER

AND

SHEILA AGIZA MUHENGE 1ST APPLICANT

CAROLYNE KIDAKE MUHENGE 2ND APPLICANT

RULING

1. The Application herein seeks what is described as Review of the Grant of Letters of Administration issued and confirmed in this matter.
2. The background of the matter is that the deceased, Tom Jandi Muhenge, died intestate on 16/05/2003 at the age of 61 years. According to the letter from the Chief relied upon in filing the Petition, the deceased was survived by 2 sons and 2 daughters, the widow having also died later. The 2 sons are the Petitioners/co-Administrators herein while the 2 daughters are the two described as Beneficiaries (they are said to be in support of the Application). The deceased also left behind various parcels of land and funds held in 2 bank accounts.
3. On 20/07/2003, the Petitioners applied for Grant of Letters of Administration Intestate in respect to the estate. The Grant was then issued by the Court on 24/09/2003 and the same was subsequently confirmed on 18/10/2004 and the estate distributed.



4. Now before Court for determination is the Application brought by way of the Summons dated 8/11/2021 and filed by the 1st Administrator against the 2nd Administrator. As aforesaid, the 2 Beneficiaries are said to be in support of the Application. The Summons is filed through Messrs K.N. Wesutsa & Co. Advocates and the prayers sought are as follows:
 - i. That this Honourable Court be pleased to Review the Certificate of Confirmation of the Grant herein dated the 14th day of December 2004 and have the estate of the Deceased re-distributed in the manner laid out in the Draft Summons for Confirmation of Grant Intestate
 - ii. That costs be provided for.
5. The Application is expressed to be brought pursuant to rule 63 of the *Probate and Administration Rules* under the *Law of Succession Act*. It is then premised on the grounds stated on the face thereof and is supported by the Affidavit sworn by the 1st Administrator.
6. In the Affidavit, the 1st Administrator deponed that the deceased was the biological father of all the 4 parties herein, that the Beneficiaries who both reside in the United States of America (USA) were not present in Kenya both at the time the proceedings herein were filed and also when the estate was distributed as can be noted from the extracts of their passports, that the 2nd Administrator is also currently resident in the USA but was still living in Kenya at the time when the Cause were filed and estate distributed, that it has now emerged that the 2nd Administrator maliciously misrepresented to the 1st Administrator that the Beneficiaries had given their consent in writing to the mode of distribution of the estate, that it is only in the month of December 2020 that the Beneficiaries were able to access the Certificate of Confirmation of Grant and first became aware of the manner in which the estate had been distributed, prompting them to register their disapproval with the 2nd Administrator's Advocates as seen from the copies of a letter and Affidavits attached, that in view of the above, the 1st Administrator and the Beneficiaries have conferred and proposed to have the estate shared out afresh in terms of the draft Summons for Confirmation of Grant attached.

Replying Affidavit

7. The Summons is opposed vide the 2nd Administrator's Grounds of Opposition filed on 24/06/2022 and the Replying Affidavit filed on 19/09/2022 and sworn by one Carol Kagonya Muhenge. The deponent states that she holds a Power of Attorney from the 2nd Administrator and therefore competent and authorized to swear the Affidavit on behalf of the 2nd Administrator who resides in the USA. Both the Grounds of Opposition and the Replying Affidavit were filed through Messrs Kutto & Kaira Nabasenge Advocates.
8. The Power of Attorney has not been exhibited to the present Application but upon going through the file, I found a copy exhibited to an earlier Application filed by the Applicant. I therefore presume that the validity of the Power of Attorney is admitted.
9. In the Grounds of Opposition, it is stated that the Application is untenable in law, an abuse of the Court process, scandalous, frivolous and/or vexatious. It is further stated that the Application is Res Judicata and offends the provisions of Section 7 of the *Civil Procedure Act* since this Succession Cause has been settled vide the Confirmation of Grant herein.
10. In the Affidavit, the deponent averred that the Application is frivolous, vexatious and an abuse of the Court process and as such untenable in law since the Application is seeking to review the Certificate of Confirmation of Grant yet there is no basis for such review under to the provisions of order 45 rule (1) of the *Civil Procedure Rules*, that once the Certificate of Confirmation of Grant has been issued, the



same can only be revoked and/or annulled but not reviewed, that the Certificate can only be nullified pursuant to the provisions of Section 76 of the *Law of Succession Act*, that the Applicant has not laid down any grounds espoused under the said Section 76 that would warrant revocation or annulment of the Grant, and that the Application is an afterthought.

11. She deponed further that the processes leading to confirmation of the Grant were known to every beneficiary of the estate, the Applicant included, that the Applicant actively participated in the process leading to the confirmation and never opposed or objected to the same, that there was constant communication between the Applicant(s) and the 2nd Administrator throughout the proceedings, that it is not true that the 2nd Administrator misrepresented any material facts to the Applicant or other beneficiaries, that the distribution of the estate was consented to by all beneficiaries and each got an equal share of the estate, no one was left out, that the estate was distributed equitably or equally amongst all the beneficiaries without favouring and/or discriminating any of them, that it is not true that the beneficiaries were not aware of the proceedings and the ultimate distribution of the estate, that the Application is made in bad faith with ill-intentions, that it is in the interest of justice that the same be struck out and that the Applicant is dishonest and is trying to maliciously mislead and hoodwink the Court.

Hearing of the Application

12. It was then agreed and directed that the Application be canvassed by way of written Submissions. The 1st Administrator's Counsel filed his Submissions on 16/11/2023. However, up to the time of concluding this Ruling, I had not come across any Submissions filed by or on behalf of the 2nd Administrator.

1st Administrator's Submissions

13. In response to the 2nd Administrator's challenge that this Court lacks jurisdiction to review the Certificate of Confirmation of Grant and that the only available avenue is to apply to revoke or nullify it, Counsel for the 1st Administrator submitted that he relies on case law to demonstrate that this Court is clothed with authority to review the Certificate. He cited the case of *Estate of Kanyingi Gatwe (Deceased)* [2018] eKLR.
14. He then reiterated that none of the beneficiaries signed any consent in relation to filing of the Petition as stipulated under rule 26 of the Probate and Administration Rules or distribution as required under Rule 40(8) of the Rules, that given that Rule 40(8) is couched in mandatory terms, absence of the consent renders the Certificate of Confirmation invalid. He cited the case of *Beatrice Mbeere Njiru v Alexander Njiru* [2022] eKLR.
15. In conclusion, Counsel submitted that the Summons herein does not seek to have the Grant revoked, rather, it desires to have the estate distributed afresh, the 1st Administrator and the beneficiaries have put forth their proposal on how the estate should be re-distributed, which is fairer as compared to the distribution made in the Certificate of Confirmation.

Analysis and Determination

16. Before I delve further into this matter, I observe that the 1st Respondent argues that the Application is Res Judicata and also offends the provisions of Section 7 of the *Civil Procedure Act* because this Succession Cause has been settled vide the Certificate Confirmation of Grant issued herein. I outrightly overrule this challenge since no similar Application seeking review of the Certificate of Confirmation has been previously sought in this matter by the Applicants and no determination thereon has been



made by this Court. On this conclusion, I refer to the Court of Appeal holding in the case of *The Independent Electoral and Boundaries Commission v Maina Kiai & 5 others*, [2017] eKLR.

17. In the circumstances, upon examination of the Application, the pleadings filed, including the Affidavits and respective parties' Submissions, I find the remaining issues that arise for determination to be as follows:
 - i. Whether a Certificate of Confirmation of Grant can be reviewed, rather than revoked or annulled, and the estate re-distributed.
 - ii. Whether therefore the Certificate of Confirmation of Grant issued herein should be reviewed and the estate re-distributed.
18. I now proceed to analyze and determine the said issues.

i. Whether a Certificate of Confirmation of Grant can be reviewed, rather than revoked or annulled, and the estate re-distributed

19. As aforesaid, the Application herein has been brought under Order 45 of the Civil Procedure Rules seeking review. The Respondents argue that once a Certificate of Confirmation of Grant is issued by the Court, the same can only be revoked and/or annulled under Section 76 of the *Law of Succession Act*, but not reviewed.
20. In answering the issue above, my first port of call is Rule 63(1) of the Probate and Administration Rules, which provides as follows:
 63. Application of *Civil Procedure Rules* and High Court (Practice and Procedure) Rules
 - (1) Save as is in the Act or in these Rules otherwise provided and subject to any order of the court or a registrar in any particular case for reasons to be recorded, the following provisions of the Civil Procedure Rules, namely Orders V, X, XI, XV, XVIII, XXV, XLIV and XLIX (Cap 21, Sub. Leg), together with the High Court (Practice and Procedure) Rules (Cap 8 Sub. Leg) shall apply so far as relevant to proceedings under these Rules.
21. Further, in the case of *John Mundia Njoroge & 9 Others vs Cecilia Muthoni Njoroge & Anor* [2016] eKLR, the Court stated as follows;

“As stated above, the only provisions of the Civil Procedure Rules imported to the *Law of Succession Act* are orders dealing with service of summons, interrogatories, discoveries, inspection, consolidation of suits, summoning and attending witnesses, affidavits, review and computation of time. Clearly Order 45 relating to review is one of the Civil Procedure Rules imported into succession practice by rule 63 of the Probate and Administration Rules. An application for review in succession proceedings can be brought by a party to the proceedings, a beneficiary to the estate or any interested party. However, the application must meet the substantive requirements of an application brought for review set out in Order 45 of the *Civil Procedure Rules*.”

22. It is therefore evident that Order 45 of the Civil Procedure Rules has been properly invoked herein. There is no reason known to me as to why, like any other order issued by the Court, a Certificate of Confirmation of Grant should not be capable of being reviewed. An Application filed under Section 76 of the *Law of Succession of Act* seeking revocation and/or annulment of a Certificate of Confirmation of Grant is a distinct and separate procedure. However, as shall be discussed hereinbelow, in my view,



in appropriate circumstances, nothing stops the Court from dealing with an Application for Review as if it were an Application for revocation or annulment of a Grant.

23. I therefore rule that, indeed, a Certificate of Confirmation of Grant is capable of being reviewed. The only proviso is that the Application must meet the requirements for review as set out in the said order 45.

ii. Whether therefore the Certificate of Confirmation of Grant issued herein should be reviewed and the estate re-distributed

24. Order 45(1) of the *Civil Procedure Rules* aforesaid, provides as follows:

- “(1) Any person considering himself aggrieved –
- (1) (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or
- (b) by a decree or order from which no appeal is hereby allowed and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for a review of judgment to the court which passed the decree or made the order without unreasonable delay....”

25. The instant Application does not disclose the ground upon which it is founded. This is a major omission by the Applicant. However, from the material contained in the Application and also in the Supporting Affidavit, it is not difficult to discern the grounds for the Application. I therefore do not find that the omission renders the Application fatally defective. Since the Applicant alleges that it is only in the month of December 2020 that the beneficiaries, including himself, were able to access the Certificate of Confirmation of the Grant and became aware of the manner in which the estate had been distributed, I find that the only ground capable of supporting the Application under order 45 is the ground of “for any other sufficient reason”. It is obvious that the grounds of “discovery of new and important matter or evidence” or “on account of some mistake or error”, cannot arise.
26. The other explanation raised and which would also possibly be capable of falling under the same ground of “for any other sufficient reason” is the allegation that the consents purported to have been executed by the 1st and 2nd Beneficiaries, both in support of the Petition for Grant of Letters of Administration and also in support of the Summons for Confirmation, were never executed by the Beneficiaries as purported.
27. However, since the Applicant has not expressly stated the ground relied on, it will not be right for this Court to enter into speculation. Further, considering the substantive nature of the matters raised by the Applicant, I agree with the Respondent’s Counsel that the appropriate manner of bringing the prayers would have been to file an Application under Section 76 of the *Law Succession Act*. Although therefore, procedurally, the Application can very well be dealt with under order 45 of the *Civil Procedure Rules*, in view of the extent of the matters raised – forgery of signatures and prayer for re-distribution of the estate - it will be more suitable to determine the same as an Application seeking annulment and/or revocation of the Grant.



28. In case I am wrong on the above, I would still resort to the provisions of section 47 of the *Law of Succession Act* and also rule 73 of the *Probate and Administration Rules* which provide as follows, respectively:

Section 47 of the *Law of Succession Act*

“The High Court shall have jurisdiction to entertain any application and determine any dispute under this Act and to pronounce such decrees and make such orders therein as may be expedient.

Provided that the High Court may for the purpose of this section be represented by Resident Magistrates appointed by the Chief Justice.”

Rule 73 of the *Probate and Administration Rules*

“73. Nothing in these Rules shall limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.”

29. The two provisions clearly cloth the Courts with wide inherent discretion to do what is necessary to ensure that the ends of justice are met (see the decision of C. Kariuki J in the case of *Millicent Mbatha Mulavu & another v Annah Ndunge Mulavu & 3 others* [2018] eKLR).

30. In recognizing the inherent power of the Court, Hon. Lady Justice L. Njuguna, in the case of *In re Estate of Saverio Ruri Njuiri (Deceased)* [2021] eKLR, stated as follows:

“15. However, it is trite that this court can revoke a grant suo moto where the grounds under section 76 are evident. The Court in the case of *Matheka and another v Matheka* (2005) 2 KLR 455 held that even when revocation is by the court upon its own motion, there must be evidence that the proceedings to obtain the grant were defective in substance, or that the grant was obtained fraudulently by the making of a false statement or by concealment of something material to the case or that the grant was obtained by means of untrue allegation of facts essential in point of law or that the person named in the grant has failed to apply for confirmation or to proceed diligently with the administration of the estate”

31. Section 76 of the *Law of Succession Act* referred to above, provides as follows:

“Revocation or annulment of grant

A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any Interested Party or of its own motion—

- (a) that the proceedings to obtain the grant were defective in substance;
- (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
- (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;



- (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either—
 - (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or
 - (ii) to proceed diligently with the administration of the estate; or
 - (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
- (e) that the grant has become useless and inoperative through subsequent circumstances.”

32. It is clear that the matters raised by the Applicant would fall under sub-Sections (a), (b) and (c) cited above.

33. On the issue of revocation of Grants, Section 76 was expounded upon by Hon. Justice W. Musyoka in the case of *Re Estate of Prisca Ong'ayo Nande (Deceased)* [2020] eKLR where he stated as follows:

“Under section 76, a court may revoke a grant so long as the grounds listed above are disclosed, either on its own motion or on the application of a party. A grant of letters of administration may be revoked on three general grounds. The first is where the process of obtaining the grant was attended by problems. The first would be where the process was defective, either because some mandatory procedural step was omitted, or the persons applying for representation was not competent or suitable for appointment, or the deceased died testate having made a valid will and then a grant or letters of administration intestate was made instead of a grant of probate, or vice versa. It could also be that the process was marred by fraud and misrepresentation or concealment of matter, such as where some survivors are not disclosed or the Applicant lies that he is a survivor when he is not, among other reasons. The second general ground is where the grant was obtained procedurally, but the administrator, thereafter, got into problems with the exercise of administration, such as where he fails to apply for confirmation of grant within the time allowed, or he fails to proceed diligently with administration, or fails to render accounts as and when required. The third general ground is where the grant has become useless and inoperative following subsequent circumstances, such as where a sole administrator dies leaving behind no administrator to carry on the exercise, or where the sole administrator loses the soundness of his mind for whatever reason or even becomes physically infirm to an extent of being unable to carry out his duties as administrator, or the sole administrator is adjudged bankrupt and, therefore, becomes unqualified to hold any office of trust.”

34. The framework for applications for grants of representation is set out in Section 51 of the *Law of Succession Act* and the one for subsequent applications for confirmation thereof is set out in Section 71.



35. Rule 26(1) and (2) of the *Probate and Administration Rules* then provide as follows:

- “(1). Letters of administration shall not be granted to any applicant without notice to every other person entitled in the same degree as or in priority to the applicant.
- (2). An application for a grant where the applicant is entitled in a degree equal to or lower than that of any other person shall in default of renunciation, or written consent in Form 38 or 39, by all persons so entitled in equally or priority, be supported by an affidavit of the applicant and such other evidence as the court may require.” [Emphasis mine]

36. On the above provisions, Hon. Lady Justice Njuguna in the case of *In re Estate of Eston Nyaga Ndirangu (Deceased)* [2021] eKLR stated as follows:

.....

20. The effect of the above provisions is that where a person is applying for a grant of letters of administration intestate, he must get consent from persons of equal or lower priority than him. The 1st and 2nd respondents having been brothers to the applicant and other beneficiaries, it therefore means that all the remaining beneficiaries ought to have consented to them being given the grant of letters of administration in relation to the estate herein. I have perused the court record and I note that consent to the making of a grant of letters of administration intestate which was filed contemporaneously with the petition was only made by two beneficiaries (being Joyce Ngithi Nyaga and Julius Kinyu) and wherein they were giving the consent to one John Ndii Nyaga, Kennedy Nyaga and Lucy Wanjiku Nyaga (3rd respondent). There is no consent as to the other brothers and sisters having consented to the grant being given to the 1st and 2nd respondent. It is my view therefore that the said grant was obtained pursuant to proceedings which were defective in substance. The respondents ought to have obtained consent from all the other brothers and sisters. In *Antony Karukenya Njeru –vs- Thomas M. Njeru* [2014] eKLR, a grant of letters of administration was revoked as persons with equal priority did not consent to the petitioners therein applying for grant of letters of administration. (See also *In the Matter of the Estate of Muriranja Mboro Njiri*, Nairobi H.C. Succ. Cause No. 890 of 2003).

21. It is my considered view therefore that the failure by the respondents more so the 1st and 2nd respondents to obtain the consents from the other siblings makes the proceedings of obtaining the same to be defective in substance and the said grant ought to be revoked and a new grant issued to the applicants.”

37. Regarding confirmation of Grant, Rule 40(8) of the *Probate and Administration Rules* is premised in the following terms:

“Where no affidavit of protest has been filed the summons and affidavit shall without delay be placed by the registrar before the court by which the grant was issued which may, on receipt of the consent in writing in Form 37 of all dependants or other persons who may be beneficially entitled, allow the application without the attendance of any person; but



where an affidavit of protest has been filed or any of the persons beneficially entitled has not consented in writing the court shall order that the matter be set down as soon as may be for directions in chambers on notice in Form 74 to the applicant, the protester and to such other persons as the court thinks fit.”

38. It is therefore clear that under the *Law of Succession Act*, Grant of Letters of Administration shall not be granted to a Petitioner without notice to every other person entitled in the same degree as or in priority to the Petitioner. Where representation is applied for by a person with equal or lesser right to others, the Petitioner is expected to notify these other persons of the filing of the Petition. These other persons would then be at liberty to participate in the proceedings or renounce their rights to administration or sign consents in Forms 38 or 39 acceding to the filing of the Petition. Where such consent or renunciation has not been filed, the Petitioner is required to file an Affidavit confirming that he/she duly notified these other persons. Similarly, the Court will not confirm a Grant to a Petitioner without notice to every other person entitled in the same degree as or in priority to the Petitioner
39. Turning back to this instant matter, it is evident that both the Petition for Grant of Letters of Administration and the Summons for Confirmation thereof are supported by purported “consents” bearing purported “signatures” of the Beneficiaries. However, the Beneficiaries now claim that at no point did they sign such consents. They also claim that they were already resident in the USA during the material times and were therefore not even in Kenya to sign the consents as purported. The Applicant has indeed exhibited copies of Affidavits sworn earlier by the Beneficiaries and relevant pages of their passports confirming that indeed they were not present in the country during the material time. For some reason, they have however not expressly stated that their signatures were forged, this is perhaps because of the family connection and in a bid to avoid besmirching a member of the family. It is however obvious that they are accusing their elder brother, the 2nd Administrator, of forging their signatures.
40. I have perused the 2nd Administrator’s Replying Affidavit and note, with great disappointment, that he has conveniently chosen to remain silent regarding the allegation of “forgery”. All he has stated is that the Beneficiaries were always kept abreast of what was happening in the proceedings. He has only raised points of law which I have already overruled hereinabove. He has maintained a conspicuous silence over the allegation that the Beneficiaries never signed the consents that he presented. He has totally avoided explaining to the Court how and where the consents came from.
41. In the circumstances, and the 2nd Administrator having chosen not to respond to the very damning allegations that he fraudulently “manufactured” the consents that he supplied, I find that the allegations have not been challenged nor controverted. Accordingly, I find that the consents supplied by the 2nd Administrator both in support of the Petition for Letters of Administration and the Summons for Confirmation of Grant were false and were never signed by the Beneficiaries as purported by the 2nd Administrator. It is therefore clear that the process was marred by fraud, misrepresentation and concealment of material facts.
42. I therefore agree with the 1st Respondent’s Counsel that neither of the beneficiaries signed any consent in support of the Petition as stipulated under Rule 26 of the Probate and Administration Rules or in support of distribution as required under Rule 40(8) of the Rules. Further, I agree with Counsel that the Rules being couched in mandatory terms, absence of valid consents renders the Grant and the Certificate of Confirmation liable to annulment or revocation.
43. Having made the above findings, the question is now whether the transgressions committed by the 2nd Administrator in the process leading to issuance of the Grant and subsequent confirmation thereof should lead to revocation of the Grant and Certificate of Confirmation and an order for re-distribution of the estate. This question arises because Section 76 of the *Law of Succession Act* gives the Court



discretion whether to revoke or annul a grant. It is not therefore the position that any breach or violation must always or automatically lead to revocation of a Grant. Power to revoke a Grant is a discretionary power that must be exercised judiciously and only on sound grounds. The Court must take into account interests of all beneficiaries entitled to the deceased's estate and ensure that the action taken will be for the interest of justice. The discretion must therefore not be exercised whimsically or capriciously (see decision of Mwita J in the case of *Albert Imbuga Kisigwa v Recho Kawai Kisigwa* [2016] eKLR).

44. Ordinarily, once it is found that the process of obtaining the Grant was tainted with fraud from inception, then it would follow that I should revoke the entire process and direct that everything begins afresh. However, in this case, despite pointing out the irregular manner in which the whole process was conducted, the Applicants have at every point, repeated and reiterated that they are not asking for the Grant of Letters of Administration be revoked or annulled. All they are asking for is re-distribution. Upon careful consideration of the matter, and considering that this litigation has been in Court since the year 2003, almost 20 years now, I find that these are exceptional and/or unique circumstances and it will not serve the interest of justice to revoke or annul the Grant of Letters of Administration.
45. For the said reasons, I will not revoke the Grant and send the protagonists back to the drawing board but I will only revoke the Certificate of Confirmation of Grant.
46. Regarding the issue of the apparent forgery of the Beneficiaries' signatures, I leave it to the Beneficiaries to decide whether, as complainants, they wish to escalate this matter to the criminal investigations' agencies for action, including possible prosecution.

Final Orders

47. In the premises, I direct as follows:
 - i. The 1st Administrator's Summons dated 8/11/2021 partially succeeds to the extent that the Certificate of Confirmation of Grant made herein on 18/10/2004 is hereby revoked.
 - ii. The Grant of Letters of Administration given herein on 24/09/2003 shall however not be disturbed and the same shall remain valid and on record.
 - iii. The 1st Administrator-Applicant shall now, within a period of thirty (30) days from the date hereof, file and serve fresh Summons for Confirmation of Grant which will include his proposed mode of distribution in terms of the draft proposal attached to the said Summons dated 8/11/2021, and also consents to be executed by the Beneficiaries.
 - iv. Upon being served, the 2nd Administrator shall be at liberty, within thirty (30) days, to respond and/or file his own proposed mode of distribution.
 - v. In view of his transgressions committed by him in this matter, the 2nd Administrator shall bear the costs of this Application.

DELIVERED, DATED AND SIGNED AT ELDORET THIS 22ND DAY OF MARCH 2024.

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WANANDA J. R. ANURO

JUDGE

