



REPUBLIC OF KENYA



**In re Estate of Busuru Kinusutu (Deceased) (Succession Cause  
247 of 2012) [2024] KEHC 3000 (KLR) (15 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 3000 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
SUCCESSION CAUSE 247 OF 2012  
WM MUSYOKA, J  
MARCH 15, 2024**

**IN THE MATTER OF THE ESTATE OF BUSURU KINUSUTU (DECEASED)**

**RULING**

1. The application that I am called upon to determine is dated 13<sup>th</sup> November 2023, and was filed herein on 13<sup>th</sup> December 2023. It seeks substitution of the applicant in a pending summons for revocation of grant, dated 20<sup>th</sup> February 2017. The applicant in the revocation application is Alfred Sokoni Ekinusut, and the person who seeks to substitute him is his son, Mika Ochana Sokoni. The said Alfred Sokoni Ekinusut is said to be aged and too old to prosecute the pending revocation application, hence the necessity now to have him substituted.
2. There is a reply to that application, vide an affidavit that Christopher Okwi Ijiriman swore on 26<sup>th</sup> January 2024. He avers that Mika Ochana Sokoni is not a beneficiary of the estate, hence the orders sought would not be available to him. It is averred that sufficient grounds have not been adduced to justify grant of the orders sought.
3. The application for revocation of grant has been pending since 2017. When it came up for hearing, viva voce, on 16<sup>th</sup> November 2023, before me, the applicant, Alfred Sokoni Ekinusut, was sworn, but he was unable to testify. He could not talk. I was informed by Mika Ochana Sokoni that the applicant could not explain himself. I adjourned the matter to allow the parties to decide on their next course of action. It was in the backdrop of that that the substitution application was conceived, and filed.
4. As the applicant, in the revocation application, is unable, as it emerged at that aborted hearing, for whatever reason, to prosecute his application, and as it would appear that the parties have not been able to resolve the issues as between themselves, on the estate, and the matter has to be resolved one way or the other, there would be justification in having him substituted.
5. Would Mika Ochana Sokoni be a proper person to substitute him? I believe he would be. Firstly, he is a son of the applicant, and he would have first-hand information on the matters in controversy. Secondly, under section 76 of the *Law of Succession Act*, Cap 160, Laws of Kenya, an application for revocation of grant may be brought by “any interested party.” I believe Mika Ochana Sokoni qualifies to be an



interested party. He is a son of the applicant, and he would stand to benefit, should the application for revocation be successful, and should his father go on to get a share out of the estate.

6. In view of the above, I am inclined to grant the orders sought in the Motion, dated 13<sup>th</sup> November 2023, to allow Mika Ochana Sokoni to step into the shoes of Alfred Sokoni Ekinusut, for the purpose of prosecuting the pending summons for revocation of grant. I, accordingly, therefore, allow the application, dated 13<sup>th</sup> November 2023, as prayed. Let the new applicant prepare for the oral hearing of that revocation application, which shall happen on a date to be allocated at the delivery of this ruling. It is so ordered.

**RULING DATED, SIGNED AND DELIVERED IN OPEN COURT AT BUSIA ON THIS 15<sup>TH</sup> DAY OF MARCH 2024**

**WM MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant.

Mr. Mika Ochana Sokoni, the applicant, in person.

Advocates

Mr. Nyamu, instructed by RE Nyamu & Company, Advocates for the petitioners.

