



**In re Estate of Chebande Alima (Deceased) (Succession Cause
391 of 2010) [2024] KEHC 3911 (KLR) (23 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3911 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE 391 OF 2010**

SM MOHOCHI, J

APRIL 23, 2024

**IN THE MATTER OF THE ESTATE OF CHEBANDE ALIMIA
(DECEASED)**

BETWEEN

ABDALAH MUHAMED A. KASINDE 1ST APPLICANT

MARIAM SALIM 2ND APPLICANT

AND

ANTONY NGETICH SEUREY 1ST RESPONDENT

JOSHUA MZEE KITION 2ND RESPONDENT

AND

JOSEPH W GITHIACA INTENDED INTERESTED PARTY

RULING

1. Before me is an amended summons dated the 21st November 2023, for review of the orders given by the Court on 18th January 2023. The same is brought pursuant to Section 47 of the [Law of Succession Act](#) and Rule 73 of the [Probate and Administration Rules](#) seeking the following reliefs;
 - i. Spent
 - i(a) That the Applicant herein Joseph Wamutitu Githiaka be granted leave of the Court to join these proceedings as an interested Party.
 - ii. That this Honourable Court be pleased to issue and order stay of implementation and execution of its orders of 18th August 2023 pending the Hearing and Determination of this Application inter-partes.



- iii. That this Honourable Court be pleased to set aside its orders of 18th August 2023 and all the consequential orders and that the Application dated 28th January 2016 be subjected to a fresh hearing with all parties and the Applicant being given an opportunity to be heard on.
 - iv. That the Respondents be ordered to bear the costs of this Application.
2. The Application is further supported by the Affidavit of Joseph Wamutitu Githiaka the proposed interested party on the sole ground that; the proposed interested party is the proprietor of land parcels Nos.
 - i. Nakuru Municipality Block 13/320.
 - ii. (Nakuru Municipality Block 13/314.
 - iii. Nakuru Municipality Block 13/321 as per the Sale Agreement dated 11th September 2017.
 3. It is noteworthy that, the assets alleged to belong to the interested party were the only assets listed herein as the assets of the deceased when the grant was made on the 3rd November 2010, and confirmed on the 15th June 2012 to the Respondents herein. This grant was ultimately revoked on the 27th February 2015 and the situation persists.
 4. This Court further reaffirmed the revocation of grant herein on the 18th of August 2023 and the situation existing herein is that no grant exists.
 5. I equally note that the intended interested party alleges to have purchased the properties on the 11th September 2017 from the 1st Respondent allegedly as the inheritor of the deceased herein, during subsistence of the proceedings which would constitute intermeddling with an estate of a deceased.
 6. While the interested party seeks to be heard in this succession this Court is of the considered view that the purported agreements between the proposed interested party and the 1st Respondent were entered into in the absence of a grant herein and that the same is thus not worthy of a hearing.
 7. I have considered the submissions by the parties and wish to state that this is a Succession Court and any dispute on purchase or attacking the root of title of the properties of the deceased can well be ventilated before the Environment and Land Court and this Court shall not venture there.
 8. I am thus not persuaded to allow the Application as the same is without merit and is accordingly dismissed.
 9. For all intents and purpose this succession cause is spent in the absence of free property of the deceased.
- It is So Ordered.

SIGNED, DELIVERED VIRTUALLY ON TEAMS PLATFORM ON THIS 23RD APRIL 2024

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MOHOCHI S.M

JUDGE

In the presence of: -

Karanja, Advocate for Proposed Interested Party

M. E. Omwenyo, Advocate for the Applicants

Respondents - Absent

