

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL
FPT – 00 – CV – MA 004 OF 2023
(ARISING FROM HCT – 01 – CV – AC – 0121 OF 2007)

5 **IN THE MATTER OF THE ESTATE OF THE LATE JULIUS KAGABA**

AND

**IN THE MATTER OF LETTERS OF ADMINISTRATION GRANTED TO
KAJUMBA GORRETTII (WIDOW) AND TINKAMALIRE BONEFACE
(FATHER)**

10 **BEFORE HON. JUSTICE VINCENT WAGONA**

RULING

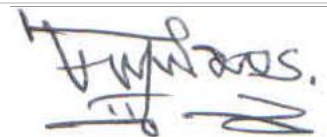
This was an ex-parte application filed by Kajumba Gorrettii seeking orders that:

(a) The letters of administration granted in HCT – 01 – CV – AC – 0121 of
2007 over the Estate of the late Julius Kagaba be amended.

15 (b) That the Applicant be granted the letters of administration alone in respect of
the estate of the Late Julius Kagaba.

(c) That the costs of the Application be borne by the Estate of the late Julius
Kagaba.

The grounds in support of the Application are contained in the affidavit deposed
20 by Kajumba Gorrettii the application in which he averred thus:



1. That she jointly with Tinkamalirwe Boniface (now deceased) applied for and were granted Letters of Administration on 18th February 2008 by the Hon. Justice Rugadya Atwooki in respect of the estate of the late Julius Kagaba formerly of Kanyansinga Village, Kiyomba Parish, Buhesi Sub County, Kabarole District.

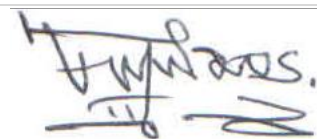
2. That unfortunately, the applicant's co administrator Tinkamalirwe Boniface passed away on the 6th of October 2018 and she reported the death. That the late Julius Kagaba had a bank account in Stanbic Bank where his pension is deposited by the Government and she has been unable to access the same because the late Tinkamalirwe with whom she had applied for the letters of administration is still reflected on the grant and the Bank denied her access to the deceased's account.

3. That she was advised that letters of administration can be amended. That it is fair, just and equitable that court is pleased to grant the application and amend the grant to reflect only the surviving administrator.

Representation:

M/s Kaahwa, Kafuuzi, Bwiruk a& Co. Advocates represented the Applicant and filed submissions to that effect which I have considered.

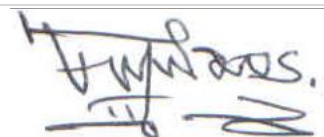
DECISION OF COURT:



I have considered the submissions of the applicant and the affidavit in support of the Application. Section 234 (2) (d) of the Succession Act permits courts to revoke letters of administration that have become “inoperative”. A grant may have been properly made but for a reason that has occurred as a result of subsequent events, it may become necessary for the court to revoke the grant for practical reasons. For example, where an administrator becomes incapable of managing the affairs by reason of mental or physical incapacity, the grant may be revoked. (*See In the Goods of Galgrath [1951] p 422*).

The primary object for the power to revoke a grant is to ensure due and proper administration of an estate and protection of the interests of those beneficially interested. The principle was elucidated in the case of *In the goods of William Loveday [1990] P 154* thus:

“The real object which the court must always keep in view is the due and proper administration of the estate and the interests of the parties beneficially entitled thereto; and I can see no good reason why the Court should not take fresh action in regard to the estate where it is made clear that the previous grant has turned out abortive or inefficient. If the court has in certain circumstances made a grant in the belief and hope that the person appointed will properly and fully administer the estate, and it turns out that the person so appointed will not or cannot administer, I do not see why court should not revoke an inoperative grant and make a fresh grant.” (See also In the matter of an application for revocation of letters of administration and grant instead to Piwa Clare and Biwaga Joan (Miscellaneous Civil Application 53 of 2016) [2016] UGHCFD 8 (01 July 2016).

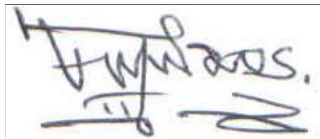
A handwritten signature in blue ink, appearing to read 'H. W. Jones', is written over a horizontal line.

In the application before me, the Applicant contends that the co-administrator Tinkamalirwe Boneface is dead and as such she cannot transact on the estate of deceased, the late Julius Kagaba and so the grant should be amended to remove Tinkamalirwe Boneface.

- 5 I have perused the application and the applicant did not attach any evidence as proof that the said Tinkamalirwe Boneface is dead.

The Applicant in my view has failed to prove her case to the satisfaction of court that the Tinkamalirwe Boneface died, to warrant the amendment of the grant. This Application therefore fails and it is accordingly dismissed. The costs of the
10 Application shall be met by the Applicant in her personal capacity.

It is so ordered.



Vincent Wagana

High Court Judge

15 **FORT-PORTAL**

27.02.2023

