



REPUBLIC OF KENYA



In re Estate of Mathai Michael alias Michael Githae Mathai (Deceased) (Succession Cause E479 of 2024) [2024] KEHC 9182 (KLR) (Family) (31 July 2024) (Ruling)

Neutral citation: [2024] KEHC 9182 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE E479 OF 2024
HK CHEMITEI, J
JULY 31, 2024
IN THE MATTER OF THE ESTATE OF MATHAI MICHAEL
ALIAS MICHAEL GITHAE MATHAI (DECEASED)**

RULING

1. This ruling relates to the application dated 14th June, 2024 filed by Georgina Wairimu Karanja and Shanice Wanjira Githae, the Applicants, seeking that a grant of administration ad litem do issue limited for the purpose of completing the process of disposing parcels of land known as L.R. No. (Githunguri) 9778 and L.R. No. (Githunguri) 9773 which had been commenced and completed by the deceased before his demise.
2. The application is supported by affidavit sworn by Georgina Wairimu Karanja on 14th June, 2024. They aver, inter alia, that they are the deceased's wife and children. The deceased died on 19th March, 2024 at Avenue Hospital, Parklands. He died while domiciled at Parklands, Nairobi, Kenya and was survived by Georgina Wairimu Karanja (wife), Shanice Wanjira Githae (daughter) and Shekinah Gathoni Githae (minor daughter).
3. At the time of his death he left behind the following assets: L.R. No. (Githunguri) 9773 (Approximate value of Kshs. 4,650,000.00), L.R. No. (Githunguri) 9778 (Approximate value of Kshs. 4,650,000.00), L.R. No. Kajiado/Kipeto/3147 (Approximate value of Kshs. 40,000,000.00), NSSF dues, MPESA – 072068xxxx and Co-operative Bank A/C No. 011000702xxxx.
4. He left behind liabilities in the form of a Family Bank loan charge dated 12th October, 2015 on L. R. No. (Githunguri) 9778 and L. R. No. (Githunguri) 9773. They wish to complete the sale of the two parcels of land aforesaid and also process the discharge of charge which processes the deceased died before their completion.

Analysis and Determination

5. Having gone through the application before this court, I address it as follows:-



6. In *In re Estate of Swaleh Karama Hantoosh (Deceased)* (Succession Cause E012 of 2023) [2024] KEHC 6741 (KLR) (24 May 2024) (Ruling) the court stated as follows:

“24. The court in the case of *In re Estate of Henry Kithia Mwitari (Deceased)* [2021] eKLR stated:-“Therefore, it is clear that a grant ad litem is issued for a specific, limited, and finite purpose. Once the purpose for which such a Grant is issued is achieved, the Grant is exhausted and becomes obsolete. More pertinently, a grant ad litem cannot be used to collect, preserve, or distribute the estate of the Deceased.”

25. Further, the court in the case of *Karega & 2 others v Kiama & 2 others* (Succession Cause 6 of 2019) [2022] KEHC 9880 (KLR) (8 July 2022) (Ruling) stated:-“However I did find the case of *Winrose Emmah Ndinda Kiamba vs Agnes Nthambi Kasyoka* illuminating as it dealt with an almost similar issue. The court was of the view that consent with regard to special limited grants of representation need not be mandatory...The court opined that that such a grant was normally issued due to the exigencies arising in relation to the estate and which could not wait for issuance of full grant through the normal way; that it was also without prejudice to the right of any other person to apply for full grant of representation to the estate of the deceased and as such, limited grant may not be subjected to full and strict compliance with the requirements meant for a full grant of representation. That again, the person to whom the grant is so made undertakes to administer the estate according to the law but limited for the purpose for which the grant was issued until a further grant of representation is made by the court. In the aspect of consent of the other beneficiaries, the court stated that *Law of Succession Act* explicitly provides that, a court may, according to the circumstances of each case, limit any grant of representation which it has jurisdiction to make, in any of the forms described in the Fifth Schedule to this Act. The aforementioned, clearly depicted that the aspect of consent with regard to special limited grants of representation need not be mandatory.”

7. In *In re Estate of the Late Toto Ngonyo Hinzano (Deceased)* (Ad Litem 31 of 2021) [2024] KEHC 5639 (KLR) (13 May 2024) (Ruling) the court stated as follows:

“11. Section 54, of the *Law of Succession Act* Cap 160, Laws of Kenya (the Act) provides for the circumstances under which a Special Limited Grant may be issued by the court as follows:54.Limited grants“A court may, according to the circumstances of each case, limit any grant of representation which it has jurisdiction to make, in any of the forms described in the Fifth Schedule to this Act.”

12. The grant limited ad litem is one normally used for prosecuting or defending proceedings began in a court of justice. This type of grant is covered by the Succession Act in the 5th schedule para 11-16. It has been described as Grant for Special purposes...”

8. In light of the foregoing, I find merit in the application dated 14th June, 2024 and the grant ad litem be issued to Georgina Wairimu Karanja and Shanice Wanjira Githae for purposes of discharging L.R.



No. (Githunguri) 9778 and L.R. No. (Githunguri) 9773 and/or continuing with the completion of their sale.

9. Costs in the cause.

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAIROBI THIS 31ST DAY OF JULY 2024.

H K CHEMITEI

JUDGE

