



In re Estate of Elizaphan Maina Muturi (Deceased) (Succession Cause E373 of 2022) [2024] KEHC 10475 (KLR) (Family) (29 August 2024) (Ruling)

Neutral citation: [2024] KEHC 10475 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE E373 OF 2022
H NAMISI, J
AUGUST 29, 2024
IN THE MATTER OF THE ESTATE OF ELIZAPHAN MAINA MUTURI (DECEASED)
IN THE MATTER OF
AGNES NYAMBURA MUTURI ADMINISTRATOR

RULING

1. Before the Court is Notice of Motion dated 13 March 2024 seeking the following orders:
 - i. (spent)
 - ii. That this Honourable Court be pleased to and hereby reinstate the petition filed in court by the Applicant herein on the 1st March 2022 and dismissed on the 20th September 2023;
 - iii. That the costs of the application be in the cause.
2. The Application is supported by the Affidavit of Agnes Nyambura Maina, the Administrator and the grounds on the face of the Application.
3. The Grant of Letters of Administration Intestate was made on 8th November 2022 to the Administrator/Applicant herein. The same was due for confirmation on 19th June 2023. The Administrator filed Summons for Confirmation of Grant dated 9th May 2023, and hearing was fixed for 20 September 2023.
4. In the Affidavit, the Administrator/Applicant states that she did not attend Court for the hearing of her application because she was not aware of the date. She urges the Court to reinstate the matter so that she may prosecute the matter to its logical conclusion.
5. Pursuant to the provisions of section 3A of the *Civil Procedure Act*, this court enjoys a wide discretion over matters and issues before it, including the question as to whether or not it should reinstate a suit



dismissed on account of non-attendance. I will therefore give the Administrator/Applicant the latitude to prosecute and conclude this matter.

6. I, therefore, order as follows:

- i. The Notice of Motion dated 13th March 2024 is hereby allowed and the matter reactivated;
- ii. The Summons for Confirmation of Grant dated 9th May 2023 shall be set down for hearing forthwith;
- iii. Mention on 10th September 2024 before the Deputy Registrar for purposes of fixing a hearing date for the Summons for Confirmation of Grant;
- iv. Costs in the cause

DATED AND DELIVERED AT NAIROBI THIS 29 DAY OF AUGUST 2024

HELENE R. NAMISI

JUDGE

Delivered on virtual platform in the presence of:

Kuriafor the Administrator/ Applicant

