



REPUBLIC OF KENYA



**In re Estate of Hannah Njeri Nguyai alias Aram (Deceased) (Succession Cause 71 of 1987) [2024] KEHC 10467 (KLR) (Family) (29 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10467 (KLR)

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**  
**FAMILY**  
**SUCCESSION CAUSE 71 OF 1987**  
**H NAMISI, J**  
**AUGUST 29, 2024**  
**IN THE MATTER OF THE ESTATE OF HANNAH**  
**NJERI NGUYAI ALIAS ARAM (DECEASED)**

**RULING**

1. The judicial system is clogged with matters that have stagnated over the years, contributing to the backlog of cases. Often times, the blame is placed on the system and the players within it. In this instance, the blame lies squarely on the Applicant, who upon receiving the Letters of Administration Intestate, went to sleep and forgot to prosecute his matter.
2. Before the Court is Notice of Motion dated 16 May 2024 seeking the following orders:
  - i. That the honourable court be pleased to review and set aside its orders issued on 12th May 2015 terminating, striking out and/or dismissing the Petition herein;
  - ii. That the Petition herein be revived and reinstated and the Summons for Confirmation of Grant dated 22nd April 2002 and filed in court on the same date be granted and the Estate be distributed as per the attached Distribution Schedule dated 16 May 2024;
  - iii. That the honourable court do issue any such other orders as it may deem fit for the expedient disposal of this matter;
  - iv. That the cost of this Application be borne by the Estate;
3. The Application is supported by the Affidavit of Makson Kihuga Nguyai, the Administrator/Applicant and the grounds on the face of the Application.
4. The Deceased herein passed away on 1 October 1983. It wasn't until 1987 when the Administrator/Applicant petitioned the Court for Letters of Administration Intestate, which were issued on 30th June 1987. The next action by the Administrator/Applicant was 15 years later, in 2002, when Summons for Confirmation of Grant were filed. A cursory look at the court record reveals that the



Administrator's next appearance in court was in October 2007, then December 2007 and April 2008. There was no activity until 2015, when the matter was dismissed for want of prosecution.

5. Even after dismissal in 2015, the Administrator/Applicant only woke up from slumber 9 years later, when, through his Advocate, he filed the present application. In his Affidavit, the Administrator/Applicant states that he was acting in person all along and being ignorant of the court process, he failed to set down the Summons for hearing and have all along laboured under the misguided belief that the Grant had been confirmed.
6. Much as I sympathise with the Administrator/Applicant and his misunderstanding of the legal process, the reason advanced is not satisfactory enough to explain a delay of 37 years. Nonetheless, in exercise of the wide discretion enjoyed by the court over matters and issues before, as provided by Section 3A of the *Civil Procedure Act*, Cap 21 of the Laws of Kenya, I grudgingly give the following orders:
  - i. The Notice of Motion dated 16 May 2024 is hereby allowed.
  - ii. The Summons for Confirmation of Grant dated 22 April 2002 shall be heard on 17th September 2024;
  - iii. If for any reason, the Administrator is unable proceed with the Summons for Confirmation within 3 months of the date hereof, then the matter shall stand dismissed;
  - iv. Costs in the cause

**DATED AND DELIVERED AT NAIROBI THIS 29 DAY OF August 2024**

**HELENE R. NAMISI**

**JUDGE OF THE HIGH COURT**

Delivered on virtual platform in the presence of:

Mr. Muriithi.....for the Applicant

