



**In re Estate of Wakaria Njoroge George (Deceased) (Succession Cause
131 of 1998) [2024] KEHC 10498 (KLR) (Family) (29 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10498 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 131 OF 1998
H NAMISI, J
AUGUST 29, 2024
IN THE MATTER OF THE ESTATE OF WAKARIA NJOROGE GEORGE (DECEASED)**

**IN THE MATTER OF
DAVID NJOROGE WAKARIA 1ST APPLICANT
STEPHEN KIRUI WAKARIA 2ND APPLICANT**

RULING

1. Before the Court is Summons dated March 8, 2024 seeking the following orders:
 - i. That the Honourable Court be pleased to set aside the orders dated February 1, 2024 and reinstate the succession cause herein;
 - ii. That the Petitioners/ Applicants be granted leave to reinstate their Summons for Rectification of Grant dated November 29, 2023 or in the alternative be granted leave to file Summons for Rectification of Grant within 21 days;
 - iii. That the costs be in the cause
2. The Application is supported by the Affidavit of David Njoroge Wakaria And Stephen Kirui Wakaria and premised on the grounds on the face of the Application. The Application has been filed following orders made on 1 February 2024 closing the file.
3. In their Affidavit, the Applicants state that the failure to prosecute the matter was not intentional. They aver that on February 1, 2024, while their matter was before the Honorable Deputy Registrar, their Advocate was attending to MCCC/E009/2023, and that by the time he logged into the court, the matter had already been mentioned and the file marked as closed.



4. Article 159(2)(b) of the Constitution provides that courts and tribunals shall be guided by the principle that justice shall not be delayed. It is the duty of the court, Advocates and litigants to ensure that matters are concluded expeditiously without inexcusable delay. This principle is encapsulated in sections 1A and 1B of the Civil Procedure Act, Cap 21 of the Laws of Kenya.
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.
6. One of the issues that confronts me is the need for expeditious conclusion of suits. It is quite unfortunate that this matter filed in 1998, is still in the system 26 years later. It is crucial that the Administrators finalise the distribution of the estate of the Deceased and bring this matter to close. With this in mind, I order as follows:
 - i. The Summons dated March 8, 2024 is hereby allowed.
 - ii. The Summons for Rectification of Grant dated November 29, 2023 is reinstated and the same shall heard on September 17, 2024;
 - iii. 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:

.Wanjala.....for the Administrators/Applicants

