



REPUBLIC OF KENYA



**In re Estate of Warucu Gathoga (Deceased) (Succession Cause 3092 of 2014)
[2024] KEHC 10476 (KLR) (Family) (29 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10476 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 3092 OF 2014
H NAMISI, J
AUGUST 29, 2024
IN THE MATTER OF THE ESTATE OF WARUCU GATHOGA (DECEASED)
IN THE MATTER OF
ARMSTRONG JONATHAN GATHOGA ADMINISTRATOR**

RULING

1. Before the Court is Summons dated 29 January 2024 seeking the following orders:
 - i. That the Honourable Court be pleased to reinstate the matter herein which was closed on 5th June 2024 because of non-attendance by the parties;
 - ii. That the Honourable Court be pleased to allow the Summons for Rectification of Grant dated 19 November 2021 to remove the name of the deceased Administrator, Gad Matiru Ndiranguso as to remain with the two administrators, namely Armstrong Jonathan Gathoga and Eunice Wanjiku Ngugi
2. The Administrator/Applicant has sworn an Affidavit in support of the Application.
3. In the Affidavit, the Administrator/Applicant states that Summons for Rectification of Grant were filed herein and slated for hearing on 8 May 2023. However, on the material day, the Applicant was unable to log into court due to network issues and so the hearing was rescheduled to 5th June 2023. Once again, the parties were not able to log into virtual court on the day. Consequently, the file was marked as closed.
4. From the proceedings, I note that when the matter came up for hearing on 5th June 2023, the court waited until 12pm. Parties did not appear.
5. 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.

6. 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.
7. One of the issues that confronts me is the need for expeditious conclusion of suits. With this in mind, I order as follows:
 - i. The Summons dated 29 January 2024 is hereby allowed in terms of prayer (i);
 - ii. The Summons for Rectification of Grant dated 19 November 2021 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 Rectification of Grant;
 - 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. Naibe h/b Ms. Muthoni for the Administrator/ Applicant

