



**In re Thomas Njoroge Mugichia (Deceased) (Succession Cause 371 of 1998)  
[2024] KEHC 10468 (KLR) (Family) (29 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10468 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 371 OF 1998  
H NAMISI, J  
AUGUST 29, 2024  
IN THE MATTER OF THE ESTATE OF THOMAS NJOROGE MUGICHIA (DECEASED)**

**IN THE MATTER OF  
PETER MANENE NJOROGE ..... 1<sup>ST</sup> APPLICANT  
SAMUEL MAINA NJOROGE ..... 2<sup>ND</sup> APPLICANT**

**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 litigants, who upon receiving the Letters of Administration Intestate, went to sleep and forgot to prosecute their matter.
2. Before the Court is Summons dated 27 March 2024 seeking the following orders:
  - i. That this Honourable Court be pleased to set aside and/or vary its orders issued on 21 March 2017 closing the file herein;
  - ii. That this Honourable Court be pleased to re-open the file and re-activate the succession cause herein;
  - iii. That the costs of this application be in the cause;
3. The Application is supported by the Affidavit of PETER MANENE NJOROGE AND SAMUEL MAINA NJOROGE, the proposed Administrators, and premised on the grounds on the face of the Application.



4. The Deceased herein passed away on 11 December 1994. It wasn't until 2001 when Letters of Administration Intestate were made to TERESIA WAMBUI NJOROGE and JANE WANJIRU NJOROGE.
5. It would seem that between 2001 and 2024, a myriad of applications have been filed. The last Summons dated 23rd August 2011 was heard and determined in November 2011. The Administrators then went into a deep slumber, causing the file to be closed in March 2017.
6. Even after the closure of the file, it took another 5 years before the Applicants herein tried to move the Court with Summons for Confirmation of Grant dated 22nd December 2022, only to discover that the matter had been terminated. Once again, they went to sleep and woke up in March 2024 to file the present Summons.
7. In their Affidavit in support of the Summons, the Applicants have presented no reason whatsoever for the delay. The only reason I can see is that one of the Administrators passed on, but this does not amount to sufficient reason why the remaining Administrator did not conclude the matter.
8. 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 Summons dated 27 March 2024 is hereby allowed.
  - ii. The Summons for Confirmation of Grant dated 22nd December 2022 shall be heard on 17th September 2024;
  - iii. If for any reason, the Administrator is unable to proceed with the Summons within 3 months, 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**

Delivered on virtual platform in the presence of:

Ms. Mugo h/b Mr. Kangiri.....for the Applicants

