



**In re Estate of Kamau Mwenda alias Kamau Mwenda Mugekenyi (Deceased) (Succession Cause 748 of 2015) [2024] KEHC 11543 (KLR) (Family) (14 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 11543 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 748 OF 2015  
SN RIECHI, J  
AUGUST 14, 2024  
IN THE MATTER OF THE ESTATE OF KAMAU MWENDA  
ALIAS KAMAU MWENDA MUGEKENYI (DECEASED)**

**BETWEEN**

**GRACE WAMBUI KARIUKI ..... 1<sup>ST</sup> APPLICANT**

**PAULINE WACHERA NJOROGE ..... 2<sup>ND</sup> APPLICANT**

**AND**

**ANNIE GATHONI KAMAU ..... RESPONDENT**

**RULING**

1. This is a ruling in respect of a summons dated 10<sup>th</sup> July 2018 filed by the applicant pursuant to rules 49 and 73 of the Probate and Administration Rules.
2. This matter relates to the estate of Kamau Mwenda(deceased) who died on 23<sup>rd</sup> January 2004. The grant of letters of administration were issued to Grace Wambui Kariuki,Pauline Wachera Njoroge and Anne Gathoni Kamau as administrators of the estate.
3. Subsequently one of the administrator Annie Gathoni Kamau refused to sign the necessary documents for transmission leading to the filing of the instant application dated 10<sup>th</sup> July 2018 in which the applicants are seeking orders that;
  1. That this court grant leave to the two applicants/Administrators to execute all documents,transfers,transmissions,deeds and all other incidental documents to complete the administration of the estate of the deceased.



2. That the respondent be restrained from interfering with the completion of the administration of the estate of the deceased.
3. That the matter requiring the signatures of all the administrators be effected by the applicants only.
4. That the costs of this application be in the cause.
4. The grounds upon which the application is founded are set out in face of it and the supporting affidavit of Pauline Wachera Njoroge sworn on 10<sup>th</sup> July 2018 . It is stated that the respondent has frustrated all efforts to complete the administration of the estate. The applicants stated it is only the respondent who is harvesting bananas and other crops on the farm and she does not want to have this matter concluded expeditiously.
5. From the application the main issue for determination is whether this court should grant leave to the applicants to execute all documents, transfers, transmissions, deeds and all other incidental documents to complete the administration of the estate of the deceased.
6. In this case, applicants and respondents are administrators of the estate of the deceased. The three are to administer the estate in accordance with the certificate of confirmation of grant on 6<sup>th</sup> December 2016. It seems the estate has not been distributed due to the refusal by respondent Annie Gathoni Kamau to sign the relevant transfer forms.
7. The applicants have stated that the respondent has refused to sign relevant transfer forms alleging the property belongs to her.
8. The law requires that the properties be distributed within 6 months after the confirmation of the grant. In *Re Estate of Gitere Kahura (deceased)* [2020]eKLR the court stated that the primary mandate of the probate court is distribution of the estate and once an order is made distributing the estate, the Administrators must comply or the Court would be compelled to remove them as Administrators. The court further stated that administrators have a duty to the beneficiaries to ensure distribution of the estate within the stipulated time.
9. The consequences of an administrator's failure to sign completion documents were well elaborated in *Kerugoya Succession Cause No. 36 of 2013, Re Estate of Wilfred Munene Ngumi (deceased)* [2020] eKLR where the court stated:
 

“Section 83(g) of the Act mandates administrators of an estate to, within six months of confirmation of grant or longer period as the court may allow, complete the administration of the estate, and to produce to the court a full and accurate account of the complete administration. This undertaking cannot be done unless the necessary documents are executed by the parties...”
10. This court being a succession court has ample powers donated to it by Section 47 of the *Law of Succession Act* and Rule 73 of the Probate and Administration Rules to resort to, in order to meet the ends of justice. The task of administering the estate is still on the shoulders of the respondent (administrator).
11. I note that despite the grant having been confirmed in the year 2016 the respondent has nonetheless failed to administer the estate. I believe that court orders ought not to be issued in vain but must be complied with. Further, the office of administrator of estate of a deceased person is an office which is built on the foundation of trust and goodwill. Where such is seen to be lacking, then the court ought



to invoke its powers to ensure that justice is done to the beneficiaries more so where the administrator puts the beneficiaries in an unenviable position.”

12. The *Law of Succession Act* envisages the matter be concluded within six months from the date of the confirmation of grant. It places a duty on personal representatives to complete the administration of the estate. Section 83(i) of the *Law of Succession Act* provides;

“To complete the administration of the estate in respect of all matters other than continuing trusts and if required by the court, either of its own motion or on the application of any interested party in the estate, to produce to the court a full and accurate account of the completed administration.”

13. The respondent has a duty to complete the administration by executing the documents which are necessary to conclude the administration. Section 47 of the *Law of Succession Act* provides that:

“The High Court shall have jurisdiction to entertain any application and determine any dispute under this Act and to pronounce such decrees and make such orders therein as may be expedient:

14. It gives this court powers to make such orders and may be expedient. It is my view that the Respondent has no basis for refusing to sign the requisite documents to effect Grant issued on 6<sup>th</sup> December 2016 and complete the administration of the estate of the deceased as provided under the law.

15. Rule 73 of the Probate and Administration Rules gives this court inherent powers to make such orders as may be necessary to meet the ends of justice, or to prevent abuse of the court process. I find that the Application is merited.

16. The respondent has duty as an administratrix of the estate of the deceased to sign/execute all the requisite documents for transmission of subject property pursuant to the certificate of confirmation of grant.

17. I therefore order as follows: -

1. The summons dated 10<sup>th</sup> July 2018 has merits and is allowed.
2. The respondent shall sign all the necessary documents for of subject property within 21 days from the date hereof.
3. If the respondent fails to comply with this order, the Deputy Registrar of this court is authorized to sign/execute all the necessary documents to effect the transmission to the beneficiaries.
4. I make no orders as to costs.

**DATED AT NAIROBI THIS 14<sup>TH</sup> DAY OF AUGUST, 2024**

**S. N. RIECHI**

**JUDGE**

