



REPUBLIC OF KENYA



In re Estate of Mary Rose Wairimu Dames (Deceased) (Succession Cause 85 of 2019) [2023] KEHC 1082 (KLR) (23 February 2023) (Ruling)

Neutral citation: [2023] KEHC 1082 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
SUCCESSION CAUSE 85 OF 2019
MM KASANGO, J
FEBRUARY 23, 2023**

**IN THE MATTER OF THE ESTATE OF MARY ROSE WAIRIMU
DAMES ALIAS MARY WAIRIMU DAMES (DECEASED)**

RULING

1. This court delivered a ruling in this matter on September 22, 2022 and made the following orders:-

“Disposition

19. In respect to the summons dated July 9, 2021 (amended on November 12, 2021) and dated November 10, 2021, I order as follows:-

- a. Each respondent, individually shall within 14 days from this date hereof file a detailed account of all acts undertaken in this estate and in that account shall set out how those acts conform to the consent dated August 10, 2020 and the partial confirmed grant dated October 28, 2020.
- b. That account stated in (a) above shall be served upon all the applicants within 15 days from this date hereof. On being served, the applicants are granted 14 days from the date of service to file and serve their response.”

This ruling is essentially to give directions now that the court has received affidavits and statement of account.

2. Having perused those documents, I hereby find that there is deep seated controversy on the state of the deceased’s estate and how it has been managed. That controversy cannot, in my humble view, be resolved on affidavit evidence. There is necessity for this court to receive *viva voce* evidence in order for a conclusive ruling to be delivered in respect to the applications dated July 19, 2021 (amended on November 12, 2021) and the other dated November 10, 2021.
3. It follows that a date will be fixed for *viva voce* evidence to be received by the court. In that regard, parties will need to file witness statements or affidavits which will be their evidence in chief.



RULING DATED AND DELIVERED AT KIAMBU THIS 23RD DAY OF FEBRUARY, 2023.

MARY KASANGO

JUDGE

Coram:

Court Assistant: Mourice /Julia

Present for Mbiriri Ngugi & Co. Advocates for:-

John Andrew

William Henry

Christopher Wood Ms. Wanjera

Caroline Kotil

Gitau J.H. Mwaru & Co. Advocates for Margret Esther:- Mr. Gitau

COURT

RULING DELIVERED VIRTUALLY.

MARY KASANGO

JUDGE

