



REPUBLIC OF KENYA



**In re Estate of M'mutungi M'magana alias M'mutungi M'magana
alias M'mutungi Magana (Deceased) (Succession Cause 60 of 2015)
[2023] KEHC 25797 (KLR) (23 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 25797 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT MERU

SUCCESSION CAUSE 60 OF 2015

TW CHERERE, J

NOVEMBER 23, 2023

IN THE MATTER OF

FRANCESKA KARIMI APPLICANT

RULING

Background

1. Letters of Administration Intestate to the estate of M'Mutungi M'Magana Alias M'Mutungi M'magana Alias M'Mutungi Magana (Deceased) were issued jointly to Julius Mbaabu Mutungi and Franceska Karimi (Applicant) on August 10, 2021.
2. Subsequently, a Certificate of Confirmation of Grant was issued on July 27, 2021 distributing the deceased's four assets but the estate remains undistributed following the death of Julius Mbaabu Mutungi on April 28, 2022.
3. By summons dated and filed on July 20, 2023 supported by an affidavit sworn by Applicant, the court is urged to issue fresh grants to Franceska Karimi to enable her complete the distribution of the estate. Application, though served, was not opposed.
4. Section 81 of the said *Law of Succession Act* provides that; -

“Upon the death of one or more of several executors or administrators to whom a grant of representation has been made, all the powers and duties of the executors or administrators shall become vested in the survivors or survivor of them:.....(Emphasis added)

5. What is clear from the above provision is that, in the instant case, upon the death of Julius Mbaabu Mutungi, his duties and powers automatically and by operation of law vested in the surviving co-administrator Franceska Karimi (Applicant).



6. From the wording of the section, there is nothing like substitution unless there is a continuing trust and there is only one surviving executor or administrator in which case the court shall appoint additional executor or administrator.
7. It is therefore hereby ordered as follows:
 1. Now that Julius Mbaabu Mutungi is deceased, Franceska Karimi shall be the sole administrator of the deceased's estate
 2. Letters of administration shall issue and the Certificate of Confirmation of Grant dated July 27, 2021 shall be rectified accordingly
 3. Franceska Karimi shall distribute the estate in accordance with the Certificate of Confirmation of Grant dated July 27, 2021
 4. This cause shall be mentioned on February 8, 2024 to confirm compliance with these orders and for further orders and/or directions

DATED AT MERU 23RD DAY OF NOVEMBER 2023

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistant- Morris Kinoti

For Applicant -Ms. Kimotho for Gichunge Muthuri & Company Advocates

For 1st Petitioner- Ms. Githinji for Mbaabu M'Inoti & Co. Advocates

