



In re Estate of Erastus Phares Mutwiri Rutere (Deceased) (Succession Cause E018 of 2022) [2023] KEHC 26684 (KLR) (20 December 2023) (Ruling)

Neutral citation: [2023] KEHC 26684 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE E018 OF 2022
TW CHERERE, J
DECEMBER 20, 2023**

**IN THE MATTER OF THE ERASTUS PHARES MUTWIRI RUTEERE (DECEASED)
AN APPLICATION FOR CONFIRMATION OF HGRANT OF PROBATE**

BETWEEN

MWENDA JOHN RUTERE APPLICANT

AND

JAMES MUNENE RUTERE OBJECTOR

RULING

1. Erastus Phares Mutwiri Ruteere (Deceased) died sometimes on 26th May, 2021. The deceased was survived by a widow, 8 children and 6 grandchildren.
2. His estate comprises of both movable and immovable assets as listed in the last will and testament dated 16th October, 2018.
3. By summons dated 31st August, 2023 filed on 05th September, 2023, the Petitioner/Applicant prays that the Grant of Probate made to him on 20th April, 2023 be confirmed in terms of the last will and testament of the deceased dated 16th October, 2018.
4. When the application came up for hearing on 24th October, 2023, the Objector's advocate intimated that he wished to file an objection. This court directed the Objector to file and serve the objection within 7 days and fixed the matter for mention on 29th November, 2023.
5. Come 29th November, 2023, no objection had been filed and the Objector and his counsel were absent. The court directed that the application for confirmation dated 31st August, 2023 be served for hearing on 19th December, 2023.



6. Come 19th December, 2023, Objector and counsel, though served as demonstrated by affidavit of service filed on 04th December, 2023 did not attend court and I fixed the application for ruling on 20th December, 2023.
7. Confirmation of grants is provided for in section 71 of the *Law of Succession Act*, as follows:

“Confirmation of Grants71. Confirmation of grants (1) After the expiration of a period of six months, or such shorter period as the court may direct under subsection (3), from the date of any grant of representation, the holder thereof shall apply to the court for confirmation of the grant in order to empower the distribution of any capital assets.”
8. Grant of Probate was made to the Applicant on 20th April, 2023 and since then, no objection has been filed. Similarly, no objection has been filed opposing the application for confirmation dated 31st August, 2023.
9. Consequently, the summons dated 18th October, 2023 is allowed in the following terms:
 1. The Grant of Probate made to Mwenda John Rutere on 20th April, 2023 is confirmed in terms of the last will and testament of the deceased dated 16th October, 2018.
 2. Certificate of Confirmation of Grant to issue accordingly
 3. Mention on 23rd April, 2024 to confirm distribution

DATED AT MERU THIS 20TH DAY OF DECEMBER 2023

WAMAE. T. CHERERE

JUDGE

Appearances

Court Assistants - Kinoti/Munene

For Petitioner/Applicant - Ms. Kendi for J.M.Kirimi & Company Advocates

For Objector -N/A for Mutwiri Arimi & Co.Advocates

