



**In re Estate of Njuguna Mwathi (Deceased) (Succession Cause
101 of 2017) [2022] KEHC 10989 (KLR) (23 June 2022) (Ruling)**

Neutral citation: [2022] KEHC 10989 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
SUCCESSION CAUSE 101 OF 2017
MM KASANGO, J
JUNE 23, 2022**

RULING

1. The grant of probate of deceased's will was granted on March 23, 2000. It was confirmed on October 24, 2000. It is in that background John Thairu Njuguna (John) filed the application dated October 29, 2020. John seeks the finding by this court that the deceased did not leave a valid written Will; that the Directorate of criminal Investigation (DCI) do present to court a report of their investigation; and the Law Society of Kenya be ordered to produce the practising details of L.K. Gitao Advocate.
2. Since the inception of this succession cause, John and his siblings have filed various objections to this succession cause and I have no reason to regurgitate the background of those objections. The Ruling of Justice C. Meoli dated March 28, 2019 sufficiently does elucidate on the same.
3. Suffice for the matter before me to state that the application dated October 29, 2020 filed by John is incompetent. It seek orders be made when the grant of probate was confirmed in the year 2000. Justice C. Meoli through the Ruling dated March 28, 2019 ordered the eviction of John from one of the properties of the estate to enable the executrix distribute the estate as per the deceased's Will. The learned Judge stated in granting orders for eviction of John that he, John had not legal basis to continue occupying the subject property. That Ruling of Justice C. Meoli is subject of a pending appeal. John's application before the Court of Appeal to stay execution of the eviction order was dismissed. The respondent and executrix Beatrice Ngendo Karanja was correct to state in her preliminary objection that this court is functus officio to consider the application dated October 29, 2020.
4. John had also filed an application dated January 22, 2021 seeking restraining orders to stop his eviction pending the hearing of his application dated October 29, 2020. Having found that the application dated October 29, 2020 is incompetent, the same fate will befall the application dated January 22, 2021.

Disposition

5. Applications dated October 29, 2020 and January 22, 2021 are dismissed with costs. The preliminary objection dated June 14, 2021 is upheld with costs.



6. No further applications shall be filed by John Thairu or on his behalf in this matter without leave of this court.
7. Orders accordingly.

RULING DATED AND DELIVERED AT KIAMBU THIS 23RD DAY OF JUNE, 2022.

MARY KASANGO

JUDGE

Coram:

Court Assistant : Mourice

For John Thairu Njuguna: - Present in person

For Beatrice Ngendo Karanja :- Mr. N. Karanja

RULING delivered virtually.**

MARY KASANGO

JUDGE

