



REPUBLIC OF KENYA



KENYA LAW
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**In Re Estate of Mwira Mungi (Deceased) (Succession Cause
669 of 2015) [2022] KEHC 12603 (KLR) (28 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 12603 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
SUCCESSION CAUSE 669 OF 2015**

LW GITARI, J

JULY 28, 2022

IN THE MATTER OF THE ESTATE OF MWIRA MUNGI (DECEASED)

IN THE MATTER OF

ELPHAS MUGO BARICUSI ADMINISTRATOR

RULING

1. This cause relates to the estate of Mwira Mungi (deceased) who died intestate on 04/10/1986. The deceased left behind two properties that formed part of his estate namely; L.R. No. Mwimbi/N.Mugumango/82 and L.R. No. Mwimbi/N.Mugumango/61.
2. Eliphas Mugo Baricus and Paskwalina Murugi Mwira were appointed as the administrator and administratrix respectively in respect to the subject estate. The two are the son and the widow to the deceased respectively. The grant issued to them was confirmed on December 13, 2016. However, Paskwalina Murugi Mwira died on 1st July 2019 at the prime age of 91 years.
3. Section 81 of the *Law of Succession Act* provides:

“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:

Provided that, where there has been a grant of letters of administration which involve any continuing trust, a sole surviving administrator who is not a trust corporation shall have no power to do any act or thing in respect of such trust until the court has made a further grant to one or more persons jointly with him.” (Emphasis added)
4. The surviving administrator in this case is Eliphas Mugo Baricus. On 09/11/2021, he was directed to move this court for the annulment of the grant. To date, however, the remaining administrator has not complied with the directions of this court. I also note that neither the said administrator nor his advocate was in court on July 13, 2022 when the matter was fixed for a mention.



5. This Court is bestowed with powers under Section 47 of the *Law of Succession Act* to make such orders under the Act that may be expedient. Further, Rule 73 of *Probate and Administration Rules* preserve the inherent jurisdiction of this court while dealing with matters succession. The duties of this court as envisaged in the *Law of Succession Act* are to help the beneficiaries get their rightful shares from a given estate. Where there is any impediment to the administration thereof, this court is allowed to invoke its inherent powers to make the ends of justice meet.
6. Under Section 83(g) of the *Law of Succession Act*, an administrator is obligated to complete the administration of the estate in respect of all matters within six months from the date of confirmation of the grant and to produce to the court a full and accurate account of the completed administration. The duty to account for the assets, liabilities and dealings of any estate purely lies on the personal representatives. It is a statutory obligation to which the administrator of an estate must adhere without any discretion.
7. In the circumstances of this cause, I order that the surviving administrator, Eliphas Mugo Baricus, is ordered to complete the administration of the deceased's estate within 60 days in view of the age of this cause from the date of this ruling and file a full and accurate inventory of the assets and liabilities of the deceased along with an accurate account of all dealings therewith up to the date of account. In default, the grant issued to him should stand revoked.

The matter shall be mentioned to confirm compliance. The administrator be served with, order by the Deputy Registrar of this court.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 28TH DAY OF JULY 2022.

L.W GITARI

JUDGE

28/7/2022

Ruling read out in open court.

L.W. GITARI

JUDGE

