



REPUBLIC OF KENYA



**In re Estate of Esther Wangari Waithaka - Deceased (Succession Cause E766 of 2024) [2025] KEHC 1032 (KLR) (Family) (24 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1032 (KLR)

**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**

**SUCCESSION CAUSE E766 OF 2024**

**CJ KENDAGOR, J**

**FEBRUARY 24, 2025**

**IN THE MATTER OF THE ESTATE OF ESTHER WANGARI WAITHAKA – DECEASED**

**BETWEEN**

**MARGARET NJERI KIRUGU ..... PLAINTIFF**

**AND**

**MARGARET WANJIRU MWANGI ..... DEFENDANT**

**RULING**

1. The Applicant, Margaret Njeri Kirugu, files summons dated 14<sup>th</sup> September, 2024 in which Margaret Wanjiru Mwangi is cited as the Respondent.
2. The Application is seeking for the following Orders:-
  - a. That this application be certified as urgent and service of this application be dispensed with in the first instance.
  - b. That this honourable court be pleased to issue a special Grant of Letters of Administration *Ad Colligenda bona defuncti* limited to the management and administration of the Deceased's parcel of land No. LR Nairobi Block 262/87 which is a commercial property with tenants in actual possession and occupation pending hearing and determination of this application.
  - c. That this honourable court do grant a temporary injunction restraining the Respondent by herself or by her agent's servants employees and/or assigns from demanding or collecting rent from any of the tenants using and occupying the Deceased's parcel of land No. LR Nairobi Block 262/87 (previously Plot No.3-119 Mathare North) located at Mathare within Nairobi City and/or leasing out the premises therein pending the hearing and determination of this Application.



- d. That honourable court do grant the Petitioner/Applicant herein with Grant of Letters of Administration *Ad Colligenda bona defuncti* limited to the management and administration of the Deceased's parcel of land No. LR Nairobi Block 262/87 (previously Plot No.3-119 Mathare North) located at Mathare within Nairobi City by allowing the Applicants to manage, leasing out and collecting rental proceeds among other related duties and obligation pending hearing and determination of this cause and/or in alternative the court to appoint a property management company pending hearing and determination of the special grant.
  - e. That the Respondent to provide an accurate account and inventory of the income from the property since deceased demise on 13<sup>th</sup> June, 2024.
  - f. That the OCS, Muthaiga Police Station do enforce compliance of the above orders by ensuring peace and order prevail at all time.
  - g. Any other necessary order this court may deem fit to grant in the interest of justice.
  - h. That the costs of this Application be provided for.
3. The Respondent opposed the application and filed a Replying Affidavit sworn on 15<sup>th</sup> October, 2024.
  4. There exists P & A E671 of 2024 which is in respect of the same Estate. There is also reference to the Estate of Gabriel Kirugu Wanjigi – P & A 936 of 2018 that the Applicant has annexed a copy of the Grant issued on 13<sup>th</sup> May, 2019.
  5. P& A E671 of 2024 has an application similar to the present one dated 20<sup>th</sup> August, 2024. The orders sought are similar.
  6. The Application dated 20<sup>th</sup> August, 2024 was struck out on 21<sup>st</sup> August, 2024. The Applicant is attempting to get a second bit on the application by lodging another Succession Cause – presenting P & A 766 of 2024.
  7. The Application dated 14<sup>th</sup> September, 2024 is an abuse of the Court process and is hereby struck out with costs to the Respondent.
  8. Proceedings in P & A766 of 2024 are closed.
  9. I order that the file P & A 766 of 2024 be consolidated with P & A E671 of 2024.
  10. Upon consolidation, the same shall be placed before Deputy Registrar for directions on processing of P & A E671 of 2024 which shall be the lead file.
  11. Mention on 18<sup>th</sup> March, 2025 before Deputy Registrar.
  12. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 24<sup>TH</sup> DAY OF FEBRUARY, 2025.**

**C. KENDAGOR**

**JUDGE**

In the presence of:-

Court Assistant: Beryl

Margaret Njeri Kirugu – Plaintiff



Margaret Wanjiru Mwangi - Defendant

