



**In re Estate of James Kiarie Kahungura alias Kiarri Kahungura (Deceased) (Succession Cause 60 of 1996) [2025] KEHC 2003 (KLR) (21 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2003 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
SUCCESSION CAUSE 60 OF 1996  
JM NANG'EA, J  
FEBRUARY 21, 2025  
IN THE MATTER OF THE ESTATE OF JAMES KIARIE  
KAHUNGURA ALIAS KIARII KAHUNGURA (DECEASED)**

**BETWEEN**

**SAMMY MBURU ..... ADMINISTRATOR**

**AND**

**CAROLINE WANGUI THIONGO ..... ADMINISTRATRIX**

**RULING**

1. The 1<sup>st</sup> Administrator of the deceased's estate (Sammy Mburu) brought a Summons dated 7<sup>th</sup> June, 2024 for Revocation of Grant of Letters of Administration herein. He seeks orders as hereunder;-
  1. Spent
  2. Spent
  3. That the rectified Certificate of Confirmation of Grant of Letters of Administration issued on the 28<sup>th</sup> day of July, 2022 to Sammy Mburu Kiarie And Caroline Wangui Thiongo be revoked.
2. The Applicant swore an affidavit in support of the Summons.
3. The 2<sup>nd</sup> Administratrix opposes the application through affidavit evidence in reply filed on 19<sup>th</sup> June, 2024 or thereabouts.
4. The Applicant avers that Grant of Letters of Administration herein issued on 18<sup>th</sup> October, 1996 was subsequently confirmed on 9<sup>th</sup> February 2004 and rectified on 28<sup>th</sup> July 2022. The initial Administratrix (Rahab Njeri Kiarie) died on 21<sup>st</sup> October, 2017 and both he and the Respondent were appointed in her place on 25<sup>th</sup> July, 2022.



5. The Applicant further deposes that on 15<sup>th</sup> December, 2022 her advocates were served with a Rectified Certificate of Confirmation of the Grant purporting that the beneficiaries of the estate had agreed on the mode of distribution of property comprising the estate. She questions authenticity of the Rectified Grant as neither she nor her advocate was aware thereof. According to the Applicant the Rectified Grant is counter to resolutions of a meeting of beneficiaries convened on 18<sup>th</sup> February, 2022. She therefore dismisses the new Grant as fraudulent, hence this application.
6. The Respondent therefore replies that she has the authority of her sisters (Ann Njoki and Alice Waithera) to swear the affidavit in opposition to the Summons. She contends that by this Summons, the Applicant is attempting to disobey an order of the court directing that a tractor registration number KTH 916 forming part of the deceased's estate be valued and the Valuation Report filed. The Applicant has also allegedly failed to co-operate in appointment of a surveyor to subdivide the estate. She is further said to have failed to file the said tractor's log book for ascertainment of its registration particulars, instead of seeking annulment of the Grant.
7. The Respondent therefore accuses the Applicant of reluctance to complete succession to the deceased's estate. She suggests that if the court is nevertheless inclined to revoke the Grant then the estate be divided equally among all the lawful beneficiaries.
8. Learned Counsel for the parties were to file written submissions but none have been put in by either side.
9. I have perused the rival affidavit evidence and the record against the Summons before the court. This is a very old file that was opened way back in 1996. Certificate of Confirmation of Grant was eventually issued on 9<sup>th</sup> February, 2024 and rectified on 28<sup>th</sup> July, 2022, but as this application shows the matter is not concluding yet.
10. The Applicant's ground for revocation of the Grant is alleged fraud on the part of the Respondent for causing rectification of the Certificate of Confirmation of the Grant dated 9<sup>th</sup> February 2004 behind her back. The issue to determine is whether the Respondent caused rectification of the Grant fraudulently.
11. The record indeed contains a Rectified Grant dated 28<sup>th</sup> July, 2022 issued by my senior brother Joel M. Ngugi Judge (as he then was). The Applicant contends that he and some other beneficiaries were not involved and did not consent to the rectification. The Rectified Grant was issued after the proceedings of 26<sup>th</sup> July 2022, when the court appointed the Applicant and the Respondent herein as the new Administrators of the estate based on content dated 2<sup>nd</sup> July 2021. I have perused the consent which rather irregularly has two dates (2<sup>nd</sup> July 2021 and 8<sup>th</sup> July 2021) and conveys agreement of beneficiaries to appoint the parties to this application as new Administrators but is silent on any proposed mode of distribution of the estate. Before the court order, the Respondent herein had filed a Chamber Summons dated 26<sup>th</sup> April 2022 also complaining of their non-involvement in distribution of the deceased's estate. In the application she proposed that "Land Parcel No. 38602 Eriithia" be shared out to all the beneficiaries of the estate. Any consent of beneficiaries to the proposal was not exhibited in the application. It appears that the court's order of 26<sup>th</sup> July 2022 compromised the said application dated 26<sup>th</sup> April 2022.
12. The Respondent does not expressly deny the Applicant's contention of lack of consent of beneficiaries to rectification of the confirmed Grant. She instead suggests that if the court allows this application, then the deceased's estate be divided equally among all the beneficiaries.



13. Although there is no evidence of a consent to rectification of the confirmed Grant as observed hereinabove, I also find no evidence of the Respondent's fraudulent misrepresentation to the court as alleged by the Applicant or at all.
14. As the parties therefore appear to agree that there was no consent to rectification of the Grant and the record confirms the fact, I will review the order rectifying the Grant and hereby revoke and/or cancel the Rectified Grant dated July 28, 2022. The parties may agree on any rectification or the Certificate of Confirmation of Grant dated February 9, 2004 will stand.
15. Ruling accordingly.

**RULING DELIVERED THIS 21<sup>ST</sup> DAY OF FEBRUARY, 2025 IN THE PRESENCE OF:**

**J. M. NANG'EA, JUDGE.**

1<sup>st</sup> Administrator's Advocate, Mr. Njoroge for Mr. Mwangi

2<sup>nd</sup> Administrator's Advocate, Mr. Kairu for Ms Njoroge

The Court Assistant (Jeniffer)

