



REPUBLIC OF KENYA



**In the Estate of Clement Gichuhi Ndirangu (Deceased) (Succession Cause E051 of 2020) [2025] KEHC 3555 (KLR) (21 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3555 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KITALE  
SUCCESSION CAUSE E051 OF 2020  
AC MRIMA, J  
MARCH 21, 2025**

**BETWEEN**

**JACINTA NDATA GICHUHI ..... PETITIONER**

**AND**

**JORAM GICHUHI NDIRANGU ..... OBJECTOR**

**RULING**

1. This is a composite ruling in respect of two applications by way of Summonses. The first one was a Chamber Summons is dated 11<sup>th</sup> December 2023. It was lodged by Joram Gichuhi Ndirangu, the Objector herein. The other application was Further Summons for Rectification dated 20<sup>th</sup> December 2023. It was instituted by Jacinta Ndata Gichuhi, the Petitioner/Administratrix herein.
2. The Petitioner and the Objector are siblings and are some of the children of the late Clement Gichuhi Ndirangu, the deceased in this cause.
3. A look at the applications now follow: -  
The Applications:  
Chamber Summons dated 11<sup>th</sup> December 2023:
4. In this application, the Objector sought the following orders: -
  - a. That the Objector/Applicant be made a co-administrator of the estate of his late father herein.
  - b. That the Petitioner is ordered to disclose all assets of the estate and give access to Mwamba Valuers to ascertain the value of the estate properties for purposes of distribution.
  - c. That an auditor be appointed by an order of this court to audit the estate business for purposes of distribution.



- d. That this honourable court be pleased to Order that Mwamba valuers, the auditor and the Advocates on record be paid by the estate their professional fees upon completion of their work.
  - e. That there be no orders as to costs.
5. In the grounds in support of the application, the Objector stated that he is the eldest son of the deceased and that he had been side-lined from benefiting from the estate. He accused the Administratrix of scheming to disinherit him by secretly filing the instant Cause. He also posited that the Administratrix has persistently obstructed Mwamba Valuers from accessing the estate for purposes of carrying out a valuation and the she was all out to ensure that the Objector does not get a fair share of the estate. He urged that an Auditor be appointed to value the estate including the business, stock and the Bank account held by and in favour of Tilak Hardware and Tools Ltd. He also prayed that he be appointed as a Co-Administrator in order to protect his interests.
  6. Referring to the Mediation Agreement, the Objector posited that an Auditor and a Valuer were appointed in order to ascertain the value of the estate but instead the Administratrix failed to disclose some estate properties including Kitale Municipal Block 18/Bidii/1681, Water bottling plant, ancestral land in Kamunya farm Gatundu North, Motor vehicles Reg. No. KAN 979Z, KAV 179B, KAJ 285T, KYP 005 and KBL 819H. He further deposed that the Administratrix was paid insurance claims by Liberty Insurance Claim No. 8174121/2, Heritage General Insurance Claim and Compensation claims out of the death of the deceased, but deposited all the monies in her account and refused to disclose how much she received.
  7. The Objector urged this Court to intervene and accord him fair distribution of the estate.
  8. From the record, it seems there was no response to the foregoing application.

**Further Summons for Rectification of Grant:**

9. The Administratrix through the above Summons prayed for the following orders: -
  1. Spent
  2. Spent.
    - i. Spent.
    - ii. Spent.
  3. The Court to give direction on the appointment of a valuer and in any event the Administrator be allowed to appoint an independent valuer to carry out valuation of the Estate for settlement in accordance with terms of the Mediation Agreement.
  4. Costs be in the cause.
10. In the grounds in support of the application, the Administratrix stated that rectification of the Grant was necessary to correct the omission on the title and error in respect of names of beneficiaries so as to enable finalization of the administration and settlement of shares. It was her case that the parties are unable to agree on appointment of a Valuer to inspect and value the properties and this application shall enable the Court to make appropriate actions.
11. In the supporting Affidavit, the Administratrix deposed that the grant was rectified on 3<sup>rd</sup> August 2023 after parties subjected themselves to mediation, but that the Grant had errors which ought to be corrected, hence, the application. She further wondered why the Mediator appointed a valuer,



Mwamba Valuers, on their behalf even before the Mediation Report was filed in Court and without them being consulted. She deposed that she resisted the appointment, but surprisingly the Mediator still maintained the stand. She urged the Court that she be allowed to appoint an independent valuer and that the parties do share the Valuer's costs equally.

12. The Objector, in his Replying Affidavit sworn on 15<sup>th</sup> February 2024, did not oppose the prayer for the rectification of the Grant. He, however, deposed that, whereas Kitale Municipality Block 18/Bidii/1681 forms part of the estate, the Administratrix had obstructed Mwamba Valuers from valuing it. He also refuted the claim that the Mediator had misrepresented facts on the aspect of getting a Valuer. He deposed that he and the Administratrix agreed and instructed the Mediator to get a Valuer and to that end, the Mediator instructed Mwamba Valuers and everyone was happy including the rest of the beneficiaries. To that end, he deposed that the Administratrix and him even shared the cost of the Valuer's air transport to and from Lodwar and paid for his deposit leaving a balance of Kshs. 476,920/= which ought to be paid from the estate.
13. He further alleged that the property known as Kitale Municipality Block 18/Bidii/1681 had a mineral water bottling plant which ought to be separately valued and that he be given his 25% share. He urged this Court to allow the valuation of the remaining assets to be done and that the Auditor to be permitted to audit the books of account in Lodwar since that is the only area remaining.
14. The Objector lamented that Administratrix closed up the deceased's hardware and opened up her own without consulting him and other beneficiaries.
15. It was his case that in executing the mandate in administering the estate, the Administratrix ought to act in utmost good faith and be transparent. He deposed that they cannot afford to pay another Valuer when there is already one that has done the work and is waiting for his fees. In conclusion, he deposed that the Administratrix cannot be allowed to unilaterally appoint an Auditor or a Valuer.
16. The parties did not file written submissions.

#### **Analysis:**

17. From the two applications, three issues emerge for determination. They are as follows: -
  - i. Whether the Objector be appointed as a Co-administrator.
  - ii. Whether the quest to give access to Mwamba Valuers to ascertain the value of the estate and the attendant disclosure of all the deceased's estate is warranted.
  - iii. Whether an Auditor ought be appointed by this Court for purposes of auditing the estate's business.
18. The Court will deal with the issues in seriatim.

#### **i. Whether the Objector be appointed a Co-Administrator:**

19. The Court has carefully appraised itself of the record and particularly the proceedings of the 8<sup>th</sup> May 2024. On the said day, this Court, upon hearing Mr. Wanyonyi, Learned Counsel for the Petitioner and Mr. Nyakundi, Learned Counsel for the Objector made the following inter alia order: -
  - a. The Objector, Joram Gichuhi Ndirangu, is hereby appointed as a Co-administrator.
20. This issue was, therefore, settled since the Objector was appointed as a Co-Administrator from May 2024.



**ii. Whether the quest to give access to Mwamba Valuers to ascertain the value of the estate and the attendant disclosure of all the deceased's estate is warranted:**

21. In settling this issue, there is need for a look at the background of the matter. Briefly, on 29<sup>th</sup> March 2023, this Court referred the dispute herein to Court Annexed Mediation. Accordingly, the beneficiaries appeared before their mediator, Mectilda Nasimiyu Khamala. The beneficiaries successfully agreed on the mode of distribution. They lodged before this Court the Mediation Settlement Agreement dated 8<sup>th</sup> May 2023 which was adopted as part of this Court's record on 3<sup>rd</sup> August 2023.
22. On a perusal of the mediation agreement, there is no mention of the Valuers to be appointed. However, on 7<sup>th</sup> November 2023, Learned Counsel for the Petitioner requested for time for the beneficiaries to get an agreed valuation. Subsequently, on 8<sup>th</sup> May 2024, this Court directed parties to agree on a common Valuer who would file a report in Court within 30 days. The Court limited the Valuation Report to the Mediation Agreement and Block 8/120.
23. As can be discerned from the Objector's Affidavit, there is an annexure titled Valuation of Assets – Progress Report done by Mwamba Valuers in respect of the mediation undertaken by the beneficiaries. The Report is addressed to the Mediator. The letter speaks in detail to the fact that the two Administrators herein [save for Maureen Njeri] were in Lodwar where they inspected the deceased's properties. The Valuer and the beneficiaries extensively visited the permanent properties and assessed the state of movable properties. The Valuer then held meetings with the beneficiaries to appraise them. After completing the process in Lodwar, the Valuer proceeded to inspect properties in Kitale and Eldoret and later to the ancestral land in Kiambu. The Valuer stated that he finalized valuation reports for all the properties except for Kibomet residence and the ancestral land in Kiambu due to lack of cooperation from the beneficiaries. In closing, the valuer indicated that he had an extensive report of the deceased's estate and was available for collection but could not divulge that information due to incomplete payment of his fees.
24. It is, therefore, evident that the beneficiaries herein participated in the assessment and inspection of the deceased's properties except the ones in Kitale and in Kiambu. However, the Administratrix/Petitioner seems to be opposed to the report by the Valuers.
25. On a careful consideration of this matter, the Petitioner's claim that the Mediator did not inform her of the choice of Valuer is obviously untrue for two main reasons. The first one is that the record indicates that all the beneficiaries were directed to agree on a Valuer and the second reason being that according to the Valuer's letter dated 2<sup>nd</sup> November 2023, the Petitioner was present when the property inspection was done in Lodwar. She also sat in meetings between the Valuer and the other beneficiaries.
26. Therefore, the claim by the Petitioner that the Mediator unilaterally appointed the valuer is a misrepresentation of facts. She was part of the process that culminated in the report that is yet to be released. She did not challenge that fact. The upshot is that there is need for the valuation to be completed and reports be filed to aid in the finalization of the administration of the estate.

**iii. Whether an Auditor ought to be appointed by this Court for purposes of auditing the estate's business:**

27. For fairness sake, and at the risk of sinking the estate into more expenses, the need to conduct a fiscal and forensic audit of the deceased's businesses is necessary. It is a reasonable request that will facilitate fair distribution of the estate. The Petitioner is not opposed to this request. The request is, hence, merited.



**Disposition:**

28. As I come to the end of this ruling, I wish to render my unreserved apologies to the parties in this matter for the delay in rendering this decision. The delay was occasioned by the fact that since my transfer from Nairobi, I have been handling matters from the Constitutional & Human Rights Division, Kitale and Kapenguria High Courts. Further, I was appointed as a Member of the Presidential Tribunal investigating the conduct of a Judge in March 2024 and later elected to the Judicial Service Commission thereby mostly being away from the station. Apologies galore.
29. In the end, the Chamber Summons Application dated 11<sup>th</sup> December 2023 and the Summons for Rectification of Grant dated 20<sup>th</sup> December 2023 are hereby determined as follows: -
- a. For avoidance of doubt, Joram Gichuhi Ndirangu, is a Co-Administrator of the deceased's estate pursuant to the Order of this Court of 8<sup>th</sup> May 2024.
  - b. Mwamba Valuers are hereby ordered to conduct valuation of the properties they did not cover in the first valuation exercise including Kitale Municipality/Block 18/Bidii/1681 among others, if any. The Valuers shall ensure that the assessments are in tandem with the relevant professional requirements and standards.
  - c. The two Administrators are hereby directed to agree, in consultation with the rest of the beneficiaries, on an Auditor for purposes of conducting an audit of the deceased's estate's businesses, stock and bank accounts. In the event there shall be no agreement on the Auditor within 21 days of this ruling, the Hon. Deputy Registrar shall direct the Trans Nzoia County Auditor to carry out the exercise.
  - d. The costs of the valuation and audit exercises shall be borne by the estate unless the beneficiaries otherwise agree.
  - e. This matter shall be fixed for mention before the Hon. Presiding Judge for further orders and directions on a date to be issued by the Hon. Deputy Registrar.
  - f. Being a contested and a family matter, there shall be no orders as to costs.
30. Orders accordingly.

**DELIVERED, DATED AND SIGNED AT NAIROBI THIS 21<sup>ST</sup> DAY OF MARCH, 2025.**

**A. C. MRIMA**

**JUDGE**

