



REPUBLIC OF KENYA



**In re Estate of Isaac Thuita Kahoreria (Deceased) (Succession Cause  
1211 of 1994) [2025] KEHC 3334 (KLR) (Civ) (20 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3334 (KLR)

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

**CIVIL**

**SUCCESSION CAUSE 1211 OF 1994**

**HK CHEMITEI, J**

**MARCH 20, 2025**

**BETWEEN**

**BEATRICE WANGUI KAHORERIA ..... APPLICANT**

**AND**

**MOSES MWANGI ..... 1<sup>ST</sup> RESPONDENT**

**ABASS KHALIFA IBRAHIM ..... 2<sup>ND</sup> RESPONDENT**

**KIPROP CHEPSERGON ..... 3<sup>RD</sup> RESPONDENT**

**MARTIN NGIGE ..... 4<sup>TH</sup> RESPONDENT**

**RULING**

1. In her application dated 23<sup>rd</sup> February 2024 the applicant prays for orders that:-
  - a. A permanent order do issue restraining the respondent, agents and servants or any person from entering property known as LR NO 209/233/11 and stop collecting rent or leasing out or dealing with the same pending the hearing and determination of this application.
  - b. This court be pleased to issue an order that the rent collected from the estate property LR NO 209/233/11 be deposited in a joint bank account between the appellant and the 1<sup>st</sup> respondent so as to protect and preserve the estate of the late Isaac Thuita Kahoreria and for accountability to all the other beneficiaries.
  - c. The orders be served to the OCS Kamukunji police station for enforcement and compliance of the orders of the honorable court.
  - d. The costs be borne by the respondents



2. The application is based on the grounds thereof and the applicant's sworn affidavit and the annexures thereto.
3. The respondents raised a preliminary objection;
  - a. That the court is functus officio hence lacks jurisdiction to entertain the same as the certificate of confirmation of grant dated 3<sup>rd</sup> February 1995 has not been set aside.
  - b. That the applicant herein is a stranger and lacks capacity to claim any rights over LR NO 209/233/11 as she is not a beneficiary of the said property as per the confirmed grant.
4. The court directed the parties to file written submissions which they complied.
5. The issues are clear in this matter. The late Isaac Kahoreria died on 10<sup>th</sup> June 1993 and letters of administration were issued to her widow Wambui Kahoreria on 9<sup>th</sup> August 1994. The same were confirmed on 3<sup>rd</sup> February 1995.
6. She later passed on and the 1<sup>st</sup> respondent applied for the grant to be rectified and on 20<sup>th</sup> June 2018 Moses Mwangi the 1<sup>st</sup> respondent was substituted as the administrator of the estate.
7. It is noted that the confirmed grant has never been altered and from my reading of it the applicants name does not feature anywhere.
8. Whereas she could be entitled to the estate of her late father, the appropriate route is to have the 1<sup>st</sup> respondent execute the said grant by distributing the estate to the beneficiaries who may include the applicant.
9. The upshot of it is that the applicant has no locus to bring this application unless and until her name is part and parcel of the grant.
10. Save on this score of locus I do not think the court lacks jurisdiction to entertain the matter. To the extent that the estate has not been distributed this court is still sized of jurisdiction.
11. This goes with the argument that the court is functus officio claimed by the respondents. The regime of family law is sometimes sui generis. It cannot have a foreclosure easily. A classic example is the matter at hand. Although there is a grant on record, it appears to me that the properties were vested in the widow who has since passed on and the 1<sup>st</sup> respondent is now the administrator of the estate.
12. In this sense therefore and as expressed above it is incumbent upon him to administer the estate faithfully and to ensure that it is transmitted to beneficiaries if any. That brings in the applicant who must agitate her rights by ensuring that she brings herself to the purview of a beneficiary as she is currently a stranger.
13. In the premises and without going into the other issues raised in the submissions I think I have stated much to show that the preliminary objection succeeds under ground two thereof.
14. The application is therefore dismissed with no order as to costs.

**DATED SIGNED AND DELIVERED VIA VIDEO LINK 20<sup>TH</sup> DAY OF MARCH 2025.**

**H K CHEMITEI**

**JUDGE**

