



**In re Estate of the Late Kimani Muhoro (Deceased) (Succession Cause E1025 of 2021) [2025] KEHC 3294 (KLR) (Family) (20 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3294 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE E1025 OF 2021  
HK CHEMITEI, J  
MARCH 20, 2025  
IN THE MATTER OF THE ESTATE OF THE LATE KIMANI MUHORO (DECEASED)**

**BETWEEN**

**NANCY GAKII MAITIMA ..... APPLICANT**

**AND**

**STEPHANIE ANGELA WANJIKU KIMANI ..... 1<sup>ST</sup> RESPONDENT**

**PHILIP GICHURU NYADIMO ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. In her application dated 14<sup>th</sup> June 2024 the applicant seeks orders that:-
  - (a) The court be pleased to review and set aside the orders and the ruling dated 3<sup>rd</sup> June 2024 and all the consequential orders.
  - (b) Costs be provided for.
2. The application is based on the grounds thereof and the applicant's sworn affidavit of the same date.
3. The main reasons for the desire to review the ruling of this court (Odero J) is for the reason that she has discovered new evidence which was not within her knowledge when the application was canvassed and the ruling was delivered.
4. Basically, and what I can deduce from the said affidavit is that she has found two items which indicates that she was the wife to the deceased. The first evidence is the letter from the Law Society of Kenya which indicates through a last benefit cheque that she was the deceased next of kin.



5. The other item is some correspondences from Pambazuka Housing Cooperative Society which has some connection with Githunguri Dairy Cooperative Society. The two items were not within her knowledge then and therefore this court had it been seized of them would not have dismissed the application and in particular the limited grant ad coligenda bona which it dismissed.
6. It was also her case that unless the said grant is restored the estate stands to suffer serious loss and damage.
7. The 1<sup>st</sup> respondent vide her sworn affidavit dated 3<sup>rd</sup> July 2024 opposed the said application. She deponed that the same was yet another application among the numerous ones filed by the applicant to delay the just conclusion of the matter.
8. That the issues raised by the applicant which she deems new are issues of evidence which shall be subjected to strict prove and they cannot be used to review the ruling of this court.
9. She accused the applicant of deliberately delaying the matter as she was enjoying part of the estate including some motor vehicles which she has failed to account for.
10. She deponed that this court shall be sitting as an appellate court if it allows the application and that the best way was for the applicant to file an appeal if she was dissatisfied.
11. The court directed the parties to file written submissions which they have complied. I have perused the same and they both mirrors what is contained in the affidavits already save for the cited authorities.

#### **Analysis And Determination.**

12. The impugned ruling states in part after revoking the grant ad coligenda bona issued to the applicant that;
  - “(4) The petition for letters of administration intestate dated 4<sup>th</sup> June 2021 filed by the respondents Stephanie Angela Wanjiku Kimani and Philip Gichuru Nyademo to be served upon the applicant within seven (7) days.
  - (5) Upon service the applicant is at liberty to file an objection to the said petition within seven (7) days.”
13. It was deponed by the respondents that the applicant has already complied with order 5 above an issue which she did not contest.
14. The next issue is whether in view of the new discoveries the said ruling ought to be reviewed. First of all, the twin evidence by the applicant are substantive in nature. They are “solid evidence” for lack of a better word which will require cross examination and I respectfully do not find them new evidence.
15. If this court were to admit the same without testing its veracity, then on the face of it one could conclude that there was a relationship of husband and wife between the applicant and the deceased.
16. In any case the court has opened the door for the parties to prove their case. I do not find any urgency to review my sisters’ orders as the new evidence will still be tested during the hearing. As a matter of fact, the compliance of the said ruling is a testimony by the applicant that she was ready to have the matter go the long way.
17. Consequently, I agree with the respondents that there is nothing new to persuade this court to review the orders. The best way and the quickest one for that matter is to fix the matter for hearing. Let both



parties argue their case and allow the court to make a determination without inundating it with many interim applications.

18. The application is otherwise dismissed for non-compliance with the provisions of Order 45 of the Civil Procedure Rules.

19. Costs shall await the outcome of the main suit.

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

**H K CHEMITEI**

**JUDGE**

