



REPUBLIC OF KENYA



**In re Estate of George Githinji Munyiri (Deceased) (Succession Cause
592 of 2010) [2025] KEHC 3302 (KLR) (19 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3302 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
SUCCESSION CAUSE 592 OF 2010**

RC RUTTO, J

MARCH 19, 2025

N THE MATTER OF THE ESTATE OF GEORGE GITHINJI MUNYIRI (DECEASED)

RULING

1. This Court granted Letters of Administration Intestate in respect of the estate of George Githinji Munyiri (deceased) herein after referred to as ‘decendent’ to Nazareena Mumbi Githinji, Benard Wainaina Githinji, Austin Ngugi Githinji and Isabell Wagethi Githinji the decedent widow, sons and daughter, respectively on 4th March 2011. The grant of the granted Letters of Administration was issued with the consent of all beneficiaries who all individually signed the consents before a Commissioner of Oaths on 2nd August 2010.
2. Later through summons dated 25th October 2021, and the orders of the court issued on 8th November 2024 Steve Njane Githinji was appointed as administrator debonis non to estate of George Githinji Munyari (deceased) who died intestate on 20 February 2004. The grant Letters of Administration Intestate were also amended by striking out/ removing the name of Nazareena Mumbi Githinji (Deceased) from the grant letters and replacing it with Steve Njane Githinji. The grant was rectified and re-issued on 13th November 2024.
3. Vide summons for confirmation of grant dated 13th February 2025, the administrators moved court seeking confirmation of the grant of letters of administration issued on 8th October 2024 and the estate divided in terms of the proposed mode of distribution therein. The grounds in support of the summons were that the grant of letters of administration was first issued on 4th March 2011 and later rectified and re-issued on 8th October 2024. That six months had lapsed since the grant letters of administration were first issued; there is no pending application for the provision of the dependants; identification and shares of all persons beneficially entitled to the estate have been ascertained and determined; and that there is no pending application under PART III of the *Law of Succession Act*. The summons was further supported by the supporting affidavit of Bernard Wainaina Githinji, Isabell Wagithi Githinji, Austine Ngugi Githinji and Steve Njane Githinji sworn on 13th February 2025. Also attached was a consent to confirmation of grant, a consent to the mode of distribution all dated 13th February 2025 signed by all beneficiary before a commissioner for oaths.



4. On the 17th February 2025, the summons for confirmation for grant was heard, all the beneficiaries and a representative of the estate of Jane Wangechi Githinji (Deceased) were all present virtually. They confirmed to court that they agreed with and consented to the proposed mode of distribution of the deceased estate. They urged the court to allow the summon application as prayed.
5. Section 71 of the (3Law of Succession provides for confirmation of grant. Section 71(1) and (3) it provides as follows;
 1. After the expiration of a period of six months, or such shorter period as the court may direct under subsection (3), from the date of any grant of representation, the holder thereof shall apply to the court for confirmation of the grant in order to empower the distribution of any capital assets
 2. ...
 3. The court may, on the application of the holder of a grant of representation, direct that such grant be confirmed before the expiration of six months from the date of the grant if it is satisfied —
 - (a) that there is no dependant, as defined by section 29, of the deceased or that the only dependants are of full age and consent to the application;
 - (b) that it would be expedient in all circumstances of the case so to direct.
6. In accordance with section 71 of the Law of Succession Act the grant could be confirmed upon expiry of 6 months from the date of issue. Section 71(3) of the Act however provides a proviso where the court may exercise its discretion and confirm the grant, notwithstanding that the said period hasn't elapsed. The listed exceptions are, where there are no dependants, or if the dependants, being of full age, consent to the application for dispensation of the said requirement and it is just and expending in the circumstances of the case to do so.
7. In this case the Grant of Letters of Administration Intestate was rectified and re-issued on 8th October 2024. The applicants herein contend that since the grants had been first issued in the year 2011, six months had since passed. While I agree with the applicants that six months had passed since the first issue of the grant letters of administration, this court position is time started running when the rectification was done. A reading of section 71(3) makes reference to expiration of six months from the date of the grant. Therefore, pragmatically, the applicant ought to have invoked the provisions of section 71(3) to seek the required exemption for the grant of representation, to be confirmed before the expiration of six months.
8. Thus, based on the date the grant of representation was re-issued the confirmation was due at any time after the 6th day of April 2025. This court however, notes that the initial Grant of Letters of Administration Intestate was issued 4th March 2011 and the estate has been running, the administrators in the Replying Affidavit of Isabel Wagechi Githinji sworn on 7 June 2024 explained the unfortunate circumstance leading to the delay in the finalisation of the administration of the estate. The reasons included the unfortunate demise of their mother and sister who went through a long period of battling sickness.
9. This court has also examined the summon for confirmation application along with the supporting documentation, and also having examined the beneficiaries who all appeared before this court, I do find that sufficient reason has been put forth to justify the confirmation of the grant. Consequently, being cognisant that this court has the discretion to allow the summons for confirmation of grant



application before the expiry of the six months, I find that the balance of discretion favours of the applicants. Further, when evaluated against the provisions of section 71(3) of the Law of Succession the application meets the threshold for granting the order under the applicable exceptions.

10. The upshot of the above is that the summons for confirmation of grant application dated 13th February 2025 is allowed as prayed. The Administrators shall appear before court on 30th September 2025 for purposes of filing the accounts of the estate of the deceased.

11. Orders accordingly

DATED AND SIGNED AT MACHAKOS THIS 19TH DAY OF MARCH 2025.

RHODA RUTTO

JUDGE

DELIVERED ON THE VIRTUAL PLATFORM, TEAMS THIS 19TH DAY OF MARCH, 2025.

In the presence of;

.....Applicant

.....Respondent

.....Court Assistant

