



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Andrea Mutahi Mutuiria (Deceased) (Probate & Administration
608 of 2006) [2025] KEHC 2695 (KLR) (7 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2695 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NYERI

PROBATE & ADMINISTRATION 608 OF 2006

MA ODERO, J

MARCH 7, 2025

PROBATE AND ADMINISTRATION CASE NO. 608 OF 2006

IN THE MATTER OF THE ESTATE OF ANDREA MUTAHI MUTUIRIA (DECEASED)

RULING

1. Before this Court for determination is the Summons dated 14th August 2023 by which the Applicant/ Administrator Sara Wanjeri Mutahi seeks the following orders:-
 - “ 1. That the Respondents be ordered to sign Forms LRA 50 and LRA 39 and all the requisite Land Control board Applications, Mutations and any other necessary documents and avail his Passports Size Photos, Phot Copies of ID Cards and the Pin Number Certificates to facilitate conclusion of this matter.
 2. That in the alternative the court do authorize the Deputy Registrar to sign all the above stated documents and do order the Land Registrar to dispense with the production of original title deeds for LR No. LOC.14 Kiru/407, LR No. LOC.14 Kiru/2999, LR NO. LOC.14 Kairo/968 and Plot No. Fort Hall Township Block II/71 respectively, Passport Size photos and photocopies of Id Cards, Pin Number Certificates of the Respondents to effect the registrations.
 3. That further this Honourable Court be pleased to order the OCS Kiria-ini to maintain peace and order during subdivision of the deceased properties.
 4. That the costs of this application be borne by the Respondents.”
2. The application which was premised upon Rules 49 and 73 of the *Probate and Administration Rules* was supported by the Affidavit of even date sworn by the Applicant.
3. The Respondents did not file any reply to the application. The matter was canvassed by way of written submissions. The Applicant filed the written submissions dated 17th September 2024 whilst the Respondents relied on the unsigned written submissions filed in court on 27th September 2024.



Background

4. This succession cause relates to the estate of the late Andrea Mutahi Mutuiria (hereinafter ‘the Deceased’) who died intestate on 16th December 2000. A copy of the Death Certificate Serial No. 606169 is annexed to the Supporting Affidavit dated 29th December 2006.
5. Following some litigation in the matter the court on 12th July 2007 granted letters of Administration Intestate to the two wives of the Deceased namely:-
 - (1) Paulina Wambui Mutahi
 - (2) Serah Wanjeri MutahiThe Grant was duly confirmed to the two on 9th December 2011.
6. However Paulina Wambui Mutahi had passed away on 17th May 2007 (the Death Certificate Serial No. 96332 is in the file) leaving the Applicant as the Sole administrator of the estate.
7. The Applicant avers that the Respondents who are also beneficiaries of the estate have been unco-operative and have frustrated the final distribution of the estate by declining to sign the relevant transmission documents. Hence the present application.
8. As stated earlier the Respondents did not file any reply to the application. They did however file written submissions.

Analysis and Determination

9. I have carefully considered the application before this court as well as the written submissions on record.
10. It is not in any doubt that the Applicant holds a Certificate of Confirmed Grant issued to herself and one Paulina Wambui Mutahi. However there is evidence that the 2nd Administrator passed away on 17th May 2007.
11. The Applicant states that she has been unable to conclude the distribution of the estate due to the unwillingness of the other beneficiaries to co-operate in executing the relevant transmission documents.
12. The Respondents did not file any reply to the Applicants Summons thus the same remains unopposed. However in their written submissions mention is made of an Affidavit of Protest which the Respondents claim has not been heard.
13. A perusal of the file indicates that one of the Respondents Damiano Mwangi Mutahi filed an Affidavit of Protest dated 6th February 2012 opposing the confirmation of the Grant. This application was overtaken by events as the Grant was confirmed on 9th December 2011 approximately two (2) months BEFORE the Protest was filed. No summons seeking to revoke the Grant has been filed.
14. In the same Affidavit the Protest object to the proposed mode of distribution of the estate. This aspect is yet to be heard. However there is no evidence that the protestor has sought have his summons set down for hearing – it is upto the protestor to prosecute his objection.
15. I note that this is an extremely old Succession Cause. The parties are acting in person and as such may be ignorant of legal procedures.



16. Firstly given the demise of her co-administrator the Applicant must file a Summons seeking to revoke the original confirmed Grant to have the same re-issued in other names to be agreed upon by all the beneficiaries.
17. Secondly the Protestor must set down his protest for hearing. In order to speed up the finalization of this cause I hereby make the following orders;-
 1. The Certificate of Confirmed Grant issued on 6th December 2011 is now useless and inoperative following the demise of one Administrator and the same is hereby revoked.
 2. The beneficiaries to agree within fourteen (14) days on a replacement Administrator (s) to be re-issued with a confirmed Grant taking into account the need for representation from both houses.
 3. The matter will be mentioned on 21st March 2025 to receive the names of the new Administrator (s) agreed upon by the beneficiaries and to give directions on hearing of the Objection to mode of distribution (if need be)
 4. This being a family matter I make no orders on costs.

DATED IN NYERI THIS 7TH DAY OF MARCH 2025.

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MAUREEN A. ODERO

JUDGE

