



**In re Estate of Kagiri Gichine (Deceased) (Probate & Administration
161 of 2000) [2025] KEHC 2428 (KLR) (7 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2428 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
PROBATE & ADMINISTRATION 161 OF 2000**

MA ODERO, J

MARCH 7, 2025

IN THE MATTER OF THE ESTATE OF KAGIRI GICHINE (DECEASED)

BETWEEN

BERNARD WAMBUGU KAGIRI PETITIONER

AND

LUCY NJOKI MAINA OBJECTOR

RULING

1. The Petitioner herein Bernard Wambugu Kagiri filed in this court a Petition dated 14th March 2023 seeking to be issued with Letters of Administration De Bonis Non in respect of the estate of the Deceased. The petition was supported by the Affidavit of even date sworn by the Petitioner.
2. The Objector Lucy Njoki Maina filed a Replying Affidavit dated 25th March 2024 in which she opposed the petition.
3. The matter was canvassed by way of written submissions. The Petitioner filed the written submissions dated 31st January 2025 whilst the Objector relied upon her written submissions dated 6th September 2024.

Background

4. This succession cause relates to the estate of the late Kagiri Gichine (hereinafter ‘the Deceased’) who died intestate on 20th May 1995. A copy of the Death Certificate Serial No 329494 is annexed to the Petition for Grant of letters of Administration Intestate dated 10th May 2000.
5. The Deceased was survived by the following persons;-
 - i. Muthoni Kagiri - Widow



- ii. Wamuyu Mwangi - Daughter
 - iii. Gichine Kagiri - Son
 - iv. Njeri Gatere - Daughter
 - v. Muriithi Kagiri - Son
 - vi. Wambugu Kagiri - Son
 - vii. Njoki Kagiri - Daughter
 - viii. Waitherero Kagiri - Daughter
6. The estate of the Deceased consisted of only one asset being the parcel of Land known as LR No Muhito/Gaturia 83 (hereinafter referred to as the 'suit land')
 7. Following the demise of the Deceased Grant of Letters of Administration was on 10th June 2006 issued jointly to Muthoni Kagiri, Wambugu Kagiri, Gichine Kagiri and Muriithi Kagiri. One Administrator Muthoni Kagiri then filed a Summons seeking to have the Grant confirmed. One Samuel Mwangi Maina filed a protest to the Summons seeking confirmation of the Grants.
 8. That protest was duly heard and Hon. Justice Serگون vide a judgment delivered on 11th June 2010 gave directions on how the suit land was to be distributed. The judge directed that the suit land be distributed in accordance with Section 35 *Law of Succession Act*. The matter went on to the Court of Appeal Vide Civil Appeal No 339 of 2010. The Court of Appeal upheld the decision of the trial judge and directed that the Grant be confirmed.
 9. The grant was then duly confirmed on 30th April 2015 and certificate of Confirmed Grant was issued in the name of the widow Muthoni Kagiri.
 10. Muthoni Kagiri later passed away on 15th March 2016. A copy of the Death Certificate Serial No 0651687 is annexed to the Supporting Affidavit dated 14th March 2023.
 11. Following the demise of the widow (Administratrix) Hon. Justice Ngaah on gave directions that the remaining Administrators continue with the administration of the estate. The Hon. Judge directed that only the name of the widow Muthoni Kagiri be removed from the certificate of confirmed Grant.
 12. In compliance with the orders made on 12th June 2019 rectified letters of Administration and Certificate of Confirmed Grant were on 12th June 2019 issued jointly to Wambugu Kagiri, Gichine Kagiri and Muriithi Kagiri.
 13. The Petitioner then filed this petition for Grant of Letters of Administration de bonis non.

Analysis and Determination

14. I have considered the petition before this court, the reply filed thereto as well as the written submissions filed by both parties.
15. 'Grant *de bonis non*' is a Latin phrase which literally means 'goods unadministered'. A Petition for Grant de bonis non is usually made where all the administrator of an estate have passed away before completing full administration of the estate.
16. I am at a loss as to why the Petitioner filed this Petition for Grant de bonis non. The Petitioner already holds a confirmed Grant issued to himself and two others on 12th June 2019. Why does he need an additional Grant.



17. The confirmed Grant issued on 12th June 2019 enables and authorizes the Administrators named therein to conclude the distribution of the estate.
18. Indeed Section 81 of the *Law of Succession Act* provides that where only one Administrator passes away (as is the case here), then a fresh Grant may be issued in the name (s) of the surviving Administrators and all powers and duties relating to the administration and distribution of the estate will vest in the surviving administrators. Therefore the Petitioner already has authority to distribute the estate and to sign all necessary transmission documents.
19. Regarding the Objection of the Objector I find that the issues raised in the Replying Affidavit dated 25th March 2024 are now '*Res Judicata*'. The Objector is attempting to revisit the issue of distribution of the suit land. These are issues which have already been litigated upto the court of Appeal. This court has no jurisdiction to re-visit the question of distribution.
20. The Rectified confirmed Grant issued on 12th June 2019 indicated that LR No Muhito Katuria 183 was to vest in the widow Muthoni Kagiri to have a life interest holding the same in trust for Lucy Njoki Maina (the Objector herein) and Bernard Wambugu Kagiri. This mode of distribution was upheld and confirmed by the court of Appeal in its judgment of 25th July 2013. This court cannot re-open that issue. In any event the Objector is provided for on the distribution of the suit land.
21. Finally I find that this Petition for Grant *de bonis non* is superfluous.

The application is not only unnecessary but only serves to delay the conclusion of this very old succession cause. There already exists a confirmed Grant issued to three Administrators (who include the Petitioner) The said Administrators should immediately embark on finalizing the distribution of the estate in line with the mode of distribution in the Rectified Certificate Confirmed Grant issued on 12th June 2019.
22. Based on the foregoing I find no merit in this Petition. The same is dismissed in its entirety. 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

