



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Gathokore Mugo (Deceased) (Succession Cause
588 of 1985) [2025] KEHC 2886 (KLR) (Family) (5 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2886 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 588 OF 1985
CJ KENDAGOR, J
MARCH 5, 2025
N THE MATTER OF THE ESTATE OF GATHOKORE MUGO - (DECEASED)

BETWEEN

DANIEL NG'ANG'A MUGO ADMINISTRATOR

AND

BETH NJAMBI 1ST RESPONDENT

TABITHA WAITHERA 2ND RESPONDENT

JACINTA WAMBUI 3RD RESPONDENT

AND

JANE NYANJIRU INTENDED THIRD PARTY

SUSAN WAIRIMU INTENDED THIRD PARTY

HANNAH WANGARI INTENDED THIRD PARTY

MUIRURI MUGO INTENDED THIRD PARTY

KAMAU MUGO INTENDED THIRD PARTY

VIRGINIA WANJIRU MUGO INTENDED THIRD PARTY

BETH MUTHONI MUGO INTENDED THIRD PARTY

SIMON NG'ANG'A MUGO INTENDED THIRD PARTY

JOSEPH KAHURO MUO INTENDED THIRD PARTY



RULING

1. Before Court is an application dated 24th October, 2025. The 1st (co-administrator of the estate), the 2nd and 3rd Applicants are the daughters of the deceased herein. The Respondents are the family of the late Daniel Nganga Mugo, a co-administrator of this succession cause, in whose favour the subject property was transmitted via confirmation and subsequent transfer at the Land registry.
2. The case is part-heard and the pending proceedings related to an application for revocation of grant filed by the Applicants herein.
3. The Application is seeking the following orders;
 - a. This application be certified urgent and heard ex parte in the first instance;
 - b. Pending hearing and determination of this Application, the Respondent, Daniel Ng'an'ga Mugo's wives, children, relatives and/or in any manner howsoever be restrained from burying the Respondent Daniel Ng'ang'a Mugo on land Title No. Loc. 3/Mukuria 150 the disputed land subject of this case herein;
 - c. Pending hearing and determination of this Application, Daniel Ng'ang'a Mugo be buried near his parents graves on his parents land which is near the disputed land wherein he has defined portions alongside his brothers who are no parties to this suit;
 - d. The Respondent, Daniel Ng'ang'a Mugo's wives, children, friends, church, relatives and/or in any manner howsoever be restrained from burying the Respondent Daniel Ng'ang'a Mugo on land title No. Loc. 3/Mukuria 150, the disputed land subject of this case herein;
 - e. Daniel Ng'ang'a Mugo to be buried near his parents graves on his parents land which is near the disputed land wherein he has defined portions alongside his brothers who are parties to this suit;
 - f. Respondent's be enjoined in the case as next of kin for the deceased Respondent Daniel Ng'ang'a Mugo;
 - g. Costs of this Application be in the cause.
4. The Respondents oppose the application and have filed a Replying Affidavit sworn on 22nd November, 2024.
5. At the time of canvassing the application, the Applicants indicated that prayers 1, 2, 3, 4, and 4 had been overtaken by events. Consequently, they only canvassed prayer 6 of the Application, which seeks to enjoin the Respondents in the case as the next of kin for Daniel Nganga Mugo (deceased), who was the co-administrator.
6. The Applicants argue that the disputed issue remains unresolved, and they wish to continue with the pending revocation proceedings, which can only move forward if the Respondents - the wives and children of the deceased, Daniel Nganga Mugo - are included in the case.
7. The Respondents, on the other hand, raised a Preliminary Objection arguing that the property in dispute had already been vested in the deceased (Daniel Nganga Mugo) and that there existed a determination by the Court of Appeal in Nairobi Civil Appeal No. 73 of 2014 regarding the same matter. They contended that this Court does not have jurisdiction to hear and determine the current application. The notice regarding the Preliminary Objection was not available on the online platform;



however, the parties submitted on it, and the essence of the Preliminary Objection was highlighted in the parties' affidavits.

8. The matter has been in Court since 1985, with substantial back and forth occurring after the issuance and Confirmation of the Grant and revocation proceedings post-2019.
9. The Respondents acknowledge that they are the beneficiaries of Daniel Nganga Mugo's (co-administrator) estate. However, neither the Applicants nor the Respondents provide evidence concerning the existence of legal personal representatives for Daniel's estate. The executor/s or administrator/s to whom representation has been granted act as the personal representative/s of the deceased for all purposes of the grant issued by the Court, and, subject to any limitation imposed by that grant.
10. Under Section 82 of the [Law of Succession Act](#), the powers of a personal representative are spelt out. It provides:

“Personal representatives shall, subject only to any limitation imposed by their grant, have the following powers-

 - (a) to enforce, by suit or otherwise, all causes of action which, by virtue of any law, survive the deceased or arise out of his death for his estate;
 - (b) to sell or otherwise turn to account, so far as seems necessary or desirable in the execution of their duties, all or any part of the assets vested in them, as they think best.”
11. If the Court were to permit the inclusion of beneficiaries in their capacity as beneficiaries, we would then be addressing the succession of Daniel and not that of Gathokore, which is the current succession matter.
12. As for the Preliminary Objection, any other proceedings in favour of Daniel can only be brought by his personal representative/s and not the Respondents in their capacities as beneficiaries to Daniel's estate. Even if the Court were to consider later admitting them into the proceedings under Rule 60, upon application by them or any other party, this can occur only once the personal representatives have been onboarded and after the interested parties sufficiently explain to the court that their inclusion is essential alongside the personal representative/s or relates to an interest that lies outside the representation of the personal representative/s.
13. I will not address the Preliminary Objection at this time, as it has not been raised by the personal representatives of the Estate of Daniel Nganga Mugo.
14. The Respondents assert a claim of interest in the subject property and may pursue it following the appointment of the personal representative/s for the Estate of Daniel Nganga Mugo. The Applicants also have recourse should the Respondents not apply for the same.
15. The upshot of the above is that the application dated October 24, 2024 is not merited and is thus dismissed. Each party shall bear their own costs of the application.
16. To advance the matter towards its conclusion, a mention date will be set within 60 days to confirm the substitution and to take directions regarding the matter.
17. It is so ordered.



**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS
ONLINE PLATFORM ON THIS 5TH DAY OF MARCH, 2025.**

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Mr. Odawa Advocate for the 1st Administrator/Applicant

