



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Damaris Nduta Gitau (Deceased) (Succession Cause
444 of 2011) [2025] KEHC 4516 (KLR) (Family) (8 April 2025) (Directions)**

Neutral citation: [2025] KEHC 4516 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

SUCCESSION CAUSE 444 OF 2011

HK CHEMITEI, J

APRIL 8, 2025

IN THE MATTER OF THE ESTATE OF THE LATE DAMARIS NDUTA GITAU (DECEASED)

DIRECTIONS

1. This matter has had twists and turns over the years yet the issues are simple and straight forward. To show the enormity of the same, all the judges who have handled it have moved to the court of appeal generally.
2. I have perused the record and the reconstructed file. I have listened to the counsel for the Objectors and the administrator and I have perused over 10 pending applications some which seem to have been dealt with halfway and others pending.
3. I have perused the preliminary objection dated 16th July 2024 in which it captured well the ruling dated 25th October 2022 by Muchelule J (as he then was) which stated as follows:-

“That being the case I direct that all the parties in this case do within 30 days file and serve a response to the Respondent’s application of 31st October 2018 to confirm the grant. The Respondent shall within 21 days of service file any further affidavit. The application shall be heard orally in open court on 13th February 2023.”
4. Of course, 13th February 2023 passed without the parties complying with the above order. I’m however not sure whether the date of the application is 31st October 2018 or 24th October 2018. The one I have seen in the file is dated 24th October 2018.
5. Whatever the case the court directed the same to be heard by way of oral evidence. Much has passed. The Objectors have made series of applications which the court decided to put on hold pending the hearing of the main application for confirmation.
6. From the pending applications it appears that the administrator Edwin Muchene Gitau has used the grant to undertake activities which the Objectors argue that it has wasted the estate and by extension



benefited him alone. These are issues which will come out at the time of determination of the main cause.

7. I do not intend to go against the orders of Muchelule J. As a matter of fact, this matter ought to have been determined by now. In any case none of the parties appealed or applied to have it set aside.
8. In the premises I direct as hereunder:-
 - (a) The orders of this court dated 25th October 2022 be complied forthwith and the parties take a hearing date as a matter of priority.
 - (b) Let there be stay of any sale, charging, distribution intermeddling or in any way dealing with all the estate assets pending the hearing and determination of the cause.
 - (c) The parties are hereby granted leave to file any witness statements or affidavits, if any, and exchange them within 30 days from the date herein.
 - (d) All the pending applications except the one for the confirmation of grant are hereby held in abeyance pending the determination of this cause.
 - (e) All the original title documents and any other legal instruments under the name of the deceased and specifically Dagoretti/Riruta Plot Number 2276/2, Dagoretti/Uthiru/290, Ndumbuini plot Number T14 and T24, Kirinyaga road plot number 209/136/30, Kirinyaga road plot number 209/136/194, Kirinyaga road plot number 209/136/36, Ngara Mushembi road plot number 209/118/147, Karen plot number 2259/53 to be delivered to the Deputy Registrar of this court by whoever is holding them within 30 days from the date herein.
 - (f) This file be placed in the strong room and under the custody of the Deputy Registrar of this court.
 - (g) This matter be mentioned before the Deputy Registrar on 5th May 2025 for taking an appropriate date and confirming compliance.
 - (h) Costs in the cause.

DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 8TH DAY OF APRIL 2025.

H K CHEMITEI
JUDGE

