



In re Estate of the Late Julius Ntibi Mwirichia (Deceased) (Succession Cause 462 of 2015) [2025] KEHC 7330 (KLR) (20 May 2025) (Ruling)

Neutral citation: [2025] KEHC 7330 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 462 OF 2015
HM NYAGA, J
MAY 20, 2025**

IN THE MATTER OF THE ESTATE OF LATE JULIUS NTIBI MWIRICHIA – DECEASED

BETWEEN

MARGARET KARAMBU PETITIONER

AND

CAROLINE MWENDWA OBJECTOR

RULING

1. The matter for determination in the Summons for Revocation and/or rectification of a grant, dated 10th June, 2024.
2. The summons seek the following orders:-
 - a. Spent
 - b. That the honourable court be pleased to issue inhibition orders restraining any dealing with the following parcels of land pending inter-partes hearing and determination of this application.
 - c. That this court be pleased to grant a temporary order maintaining the status quo in respect of land Parcel Number Antubetwe/Njoune/4270, 4271, 4273,5303, 6304 5305 pending the hearing and determination of the application.
 - d. That this honourable court be pleased to issue an order of rectification of the land register in respect of parcels of land itemized in clause (b) hereinabove and have the same revert to the name of the deceased herein for the purposes of distribution of eh estate to the objector/ applicant or all the beneficiaries of eh deceased.
 - e. That the honourable court revoke the letter of administration issued to the administrator herein and a fresh letter od administration be issued to the applicant herein and in the



alternative the Deputy Registrar be authorized to execute all the necessary documents to effect and/or complete the administration of the estate herein.

- f. That the costs of this application be borne by the Petitioner/Respondent
3. The summons is supported by the grounds set out on the face of it and the applicant's affidavit sworn on even date.
 4. The applicant's case is that she is a daughter of the deceased herein. That the confirmation of the grant was made when she was 18 years old and had no knowledge of the cause herein. That the mode of distribution filed on 10/6/2024 and approved by some of the beneficiaries was not the desired mode of distribution. That land Parcel No. Nyambene/Antubetwe/ Njoune/384 was never distributed to the applicant. That the distribution of the Estate was carried out unfairly. That the applicant faced the risk of being denied her rightful inheritance.
 5. The applicant thus prays that the grant be revoked, respondent be removed as an administrator and that she be appointed in her place.
 6. The respondent filed a replying affidavit sworn on 7th November, 2024. She avers that the application is meant to delay the completion of this matter.
 7. It is further deponed that the Objector's mother had already been given a share of the estate by the deceased during his lifetime but she sold it off. That despite this, they provided for the objector and her siblings.
 8. It is further deponed that at the time the cause was filed, the applicant was a minor and she held the property in trust for her.
 9. The respondent also depones that one Christopher Murithi had filed a similar application on 2nd August, 2021 and the court gave directions, which culminated in the certificate of confirmation of the grant herein. That the applicant thus got 0.3 acres. That no injustice has been disclosed by the applicant. That if the orders sought are granted, then each beneficiary who was a minor will come to court seeking the same orders.
 10. In her supplementary affidavit sworn on 22nd November, 2024, the applicant states that the alleged disposal of land by her mother was in respect to her personal property and not for her children. That her application is different from the one filed by her brother Christopher Muriithi.
 11. The Objector further avers that her interest is only in her share of LR No. Nyambene/Antubetwe/ Njoune/384, where she has built a house adjacent to the one of her brother, and she has invested in Miraa, which is her source of livelihood.
 12. From the court record, the deceased had 9 children, who are listed in the affidavit in support of the Petition for Letters of Administration. The list includes the applicant, who according to the Identity Card she has annexed, was born on 16th January, 1998.
 13. The applicant states that at the time the Petition was filed, she was only 18 years old and had no knowledge of the Cause herein.
 14. A look at the consent to the making of a grant of administration by a person, of equal or lesser priority, there is a signature against her name. The applicant has not disowned the said signature. However given that she was a minor, then her signature was unnecessary. By law only beneficiaries who are adults are required to give consent.



15. That said, it is further noted from the court record that the grant was confirmed on 17/7/2018. The court noted that all the beneficiaries were provided for. By then the applicant was an adult. She did not file any protest.
16. After the confirmation of the grant, Christopher Muriithi filed Summons for Revocation of Grant herein on 3/8/2021. The court record indicates that when the summons came up for hearing on 17/10/2022 before my sister Justice T. W. Cherere, the applicant was present, alongside the said Christopher, the respondent and Hyda Nyawira, who was aged 16 at the time. The court ordered that the grant be amended in respect of the shares held in trust for Christopher, Caroline(the Applicant) and Peter Mutwiri and they be registered in their names. The court then gave a mention date to confirm compliance and distribution of the Estate.
17. It is thus clear that the applicant participated in the proceedings of 17/10/2022 and never raised any objection to the application by his brother Christopher. She was an adult then. She cannot come back to seek revocation of the same grant that she consented to its confirmation, unless she can prove illegality, fraud, misrepresentation, or any other ground that would form a ground to set aside a consent .
18. Section 76 of the [Law of Succession Act](#) provides for grounds for revocation of any grant. It states as follows: -
 76. Revocation or annulment of grant

A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion-

 - (a) that the proceedings to obtain the grant were defective in substance;
 - (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
 - (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;
 - (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either-
 - (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or
 - (ii) to proceed diligently with the administration of the estate; or
 - (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
 - (e) that the grant has become useless and inoperative through subsequent circumstances.
19. To succeed, the applicant has to show any of the grounds set therein. Of course, the court has powers to move on its own motion if it finds a reason to revoke a grant.
20. The applicant, after getting a share that is more or less equal to all the other beneficiaries, appears like she wants to abandon her assigned share in LR. Nyambene/Antubetwe/Njoune/1393 and get



a portion of Nyambene/Antubetwe/Njouné/384, which has already been distributed to the other beneficiaries. Her request is tantamount to seeking to have the estate re-distributed, yet she consented the amendment of the confirmed grant that was issued on 17/10/2022.

21. For the foregoing reasons, I find that the application is lacking in merit and it is dismissed.

22. Being a family matter, there shall be no orders as to costs.

DATED, SIGNED & DELIVERED AT MERU THIS 20TH DAY OF MAY, 2025.

H.M. NYAGA

JUDGE

