



REPUBLIC OF KENYA



In re Estate of Mukuha Gathang'ara (Deceased) (Succession Cause 431 of 2005) [2025] KEHC 6107 (KLR) (15 May 2025) (Ruling)

Neutral citation: [2025] KEHC 6107 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
SUCCESSION CAUSE 431 OF 2005**

**M MUYA, J
MAY 15, 2025**

BETWEEN

JERIOS WAMUYU MWANIKI APPLICANT

AND

SCHOLASTICA NJOKI MUKUHA RESPONDENT

AND

TERESIA WANJIRU OBJECTOR

RULING

1. That the grant issued by this court on 10/6/2021 be revoked.
2. That the costs of this application be provided for

The grounds are on the basis of fraud and non-disclosure of all material facts to the court.

1. That the grant on the face of it has disinherited the applicant hence the instant summons.
2. That the Respondent has moved very fast in an attempt to transmit the Estate of the Deceased disinheriting the applicant.
3. That unless the prayers sought herein are granted the applicant stands to lose irreparable damage.
4. That the Respondent will suffer no prejudice if the orders sought are granted.



The application is expressed to be brought under Section 76(a)(b) (c) of the Law of Succession which provides:-

“ 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 was 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”

3. It is the submission by the applicant that in her replying affidavit the objector does indicate that the husband of the applicant was involved in the Succession Proceedings until his demise but she did not disclose that after that demise, the applicant was not informed of the further proceedings and the distribution of the deceased estate and therefore she was disinherited.
4. Further that the Respondent/Objector failed to disclose to the court that the late, Richard Mwaniki Mukuha had been living in LR. Number Muhito/Muyu/4X8 was to be shared equally between Scholastica Njoki Mukuha, Jeremano Wanjohi Mukuha, Tabitha Wambui and the late Richard Mwaniki Mukuha.
5. That all the beneficiaries were to inherit plots as follows:-
 1. Scholastica Njoki Mukuha - Plot No. 2, Kahara Market
 2. Jeremano Wanjohi Mukuha - Plot No. 15, Kahara Market
 3. Tabitha Wambui - Plot No. 1, Kahara Market
 4. Richard Mwaniki Mukuha - Plot No. 7, Kahara Market
6. The grant was revoked by the Ruling dated 10th June, 2021 and a fresh grant issued and the mode of distribution was in main left.
7. Richard Mwaniki Mukuha’s Share in LR number Muhito/Muyu/488 was given to Teresa P. Wanjiru.
8. It is the contention by the applicant that the decision by the court was reached through concealment of material facts to the effect that the late Richard Mwaniki’s wife was residing in LR Number Muhito/Muyu/488 and not elsewhere as alleged.

Determination And Conclusion

9. A reading of the ruling of Mshila Judge dated 10th day of June, 2021 shows that she had found that there was concealment of material facts and she proceeded to have the grant dated 8/3/2007 revoked.
10. At paragraph 32 the judge observed:-

The applicant, Richard, Jeremano and Charles are all children from the 1st house. There is evidence on record that Richard had been given his own piece of land elsewhere and that



he resided there. Jeremano and Charles were allocated their portions by the 1st Respondent, which she claims was according to the wishes of the deceased; as for her co-wife Rosemary's portion. She unlawfully distributed this portion to Richard Mwaniki Muhuhe whereas she ought to have distributed it to Rosemary's four (4) children to be hold by them jointly or in equal shares.

Paragraph 33:-

“This court will therefore only disturb the mode of distribution effected by the 1st Respondent to Richard Mwaniki Mukuha of the portion in Muhito/Muyu/488 that belonged to Rosemary, the sons have all benefited from the deceased's Estate and it is only the applicant who has not benefited, therefore in the interest of justice and equitable distribution this portion shall be redistributed to the applicant, the shares with Muyu General Transport Company Limited shall also be redistributed to be held by Scholastica Njoki Mukuha and Teresa P. Wanjiru (for the benefit of the 1st house)”

11. From the above, it is patently clear that the redistribution of the Estate was done by a ruling of the court dated 10th June, 2021 and Richard Mwaniki's share was considered before the court made appropriate orders.
12. The applicant's contention is based on the redistribution of the Estate which was made by the court. Her remedy should have been through an appeal on the ruling of the court. I am not satisfied that the application before me has merit and it is dismissed. Costs in the cause.

RULING READ AND DELIVERED IN OPEN COURT THIS 15TH DAY OF MAY, 2025.

M. MUYA

JUDGE

