



REPUBLIC OF KENYA



**In re Estate of Jane Nyawira Ngunjiri (Deceased) (Succession Cause
215 of 2006) [2025] KEHC 8278 (KLR) (Family) (14 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 8278 (KLR)

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

SUCCESSION CAUSE 215 OF 2006

CJ KENDAGOR, J

MAY 14, 2025

IN THE MATTER OF THE ESTATE OF JANE NYAWIRA NGUNJIRI-DECEASED

BETWEEN

PAUL NGUNJIRI NDUNGU 1ST ADMINISTRATOR

PATRICIA NJERI NDUNGU 2ND ADMINISTRATOR

AND

DAVID WANGAI NDUNGU 1ST RESPONDENT

CHARLES KABUTU NDUNGU 2ND RESPONDENT

RULING

1. The Applicants are the administrators in this succession case, while the Respondents are among the beneficiaries. They are related by virtue of being children of the deceased herein. The distribution of the estate was outlined in the Certificate of Confirmation of Grant issued on 21st February, 2007 and rectified on 10th November, 2011.
2. The Administrators have presently presented an application dated 3rd April 2025 in which they seek the following orders;
 - a. That this Application be certified extremely urgent and service be dispensed with in the first instance;
 - b. That this Court be pleased to issue an injunction order restraining the 1st and 2nd Respondents, their agents, employees, servants, attorneys or any other person from, alienating, wasting or interfering with the estate Dagoretti/Waithaka/T.82 and Dagoretti/Riruta/S305 pending the hearing and determination of this application;



- c. That this Court be pleased to issue an injunction order restraining the 1st and 2nd Respondents, their agents, employees, servants, attorneys or any other person from, alienating, wasting or interfering with the estate land parcel number Dagoretti/Waithaka/T.82 and Dagoretti/Riruta/S305 and pending the full administration of the estate;
 - d. That this Court be pleased to order that all rental income from land parcels number Dagoretti/Waithaka/T.82 and Dagoretti/Riruta/S305 and pending the full administration of the estate;
 - e. That this Court be pleased to order that all rental income from the land parcels number Dagoretti/Waithaka/T.82 and Dagoretti/Riruta/S305 be deposited in the Administrators' joint account number 1000921916 NCBA Bank Kawangware Branch pending the full administration of the estate;
 - f. That this Court be pleased to order respondents to render an accurate account in respect of rental income from Dagoretti/Waithaka/T.82 and Dagoretti/Riruta/S305 from August, 2007 today;
 - g. That this Court be pleased to order that all rental income from Dagoretti/Waithaka.T.82 and Dagoretti/Riruta/S305 be strictly utilized for the administration of the estate until each beneficiary gets his or her share from the estate;
 - h. That the Certificate of Confirmation Grant be rectified by correcting the error in respect of title number Dagoretti/Waithaka/S305 to Dagoretti/Riruta/S305;
 - i. That costs of this Application be borne by the Respondents.
3. The 2nd Respondent supported the application and, in the Replying Affidavit, blamed the 1st Respondent for failing to collaborate with the rest of the family and also for withholding the rental income derived from the subject properties, namely Dagoretti/Waithaka/T.82 and Dagoretti/Waithaka/S.305 (to which they stated that the correct reference is Dagoretti/Riruta/S305). These properties are bequeathed to the two Respondents herein, and each has an equal share.
 4. The Administrators contend that they have not been able to conclude the estate administration due to lack of funds. They further stated that they had agreed with the Respondents to use the rental income from the above two properties for the estate administration, as it was the only source of revenue from their mother's and father's estates (Estate of Stephen Ndungu Ngunjiri, P & A Cause No. 216 of 2006).
 5. The Administrators stated that the Respondents only availed funds that facilitated part of the transfers, but began taking them in circles when a demand was made for the same to allow estate distribution.
 6. I have perused the record to be able to understand the genesis of the matter and found that on 02nd October, 2009, an issue arose about the execution of transfer documents, and the beneficiaries were all required to attend Court at a later date. On 27th October, 2009, they recorded a consent in the following terms, which was signed by all four beneficiaries;
 - i. That the transfers which are not jointly shared by the four beneficiaries to be signed by Paul Ngunjiri Ndungu (1st Administrator) within three days failure which the Deputy Registrar shall sign on his behalf;
 - ii. Each beneficiary of the property not jointly owned to pay for the costs of the transfer and the liabilities accruing under;
 - iii. All the beneficiaries to share equally the transfer costs of the following properties;



- a. Dagoretti/Waithaka/389
 - b. Kwale/Galu/Kinondo/610
 - c. Kwale/Galu/Kinondo/591
- iv. Mention on 8/12/2009 to confirm compliance.
7. The subsequent proceedings in the matter concerned the rectification of errors in the certificate of confirmation of grant, which were duly effected.
 8. There is no documented consent regarding the rental income as alleged in the application. Furthermore, there is a lack of concrete evidence verifying that the properties in question are indeed generating the rental income on behalf of the estate as stated. The claims presented in the accompanying affidavit lack the essential details needed to justify issuing such extreme orders as requested. Even the 2nd Respondent, who is a co-beneficiary and supports the issuance of these orders, has not offered the necessary information to make a compelling case.
 9. Issuing any injunctive orders will only prolong the conclusion of the estate administration. This is particularly important to consider since there are no challenges regarding the shares of each beneficiary or the two properties that have been allocated to the Respondents.
 10. There is also no documentary evidence to support the corrected citation sought for the property Dagoretti/Waithaka/S305.
 11. The consent dated 27th October, 2009 remains valid and has not been set aside. This consent addressed the issue of transfer costs for each property, clearly outlining what costs would be shared and which ones would be borne individually.
 12. In light of the above, the application dated 3rd April, 2025 is not merited and is dismissed.
 13. The grant was issued in 2006 and confirmed in 2007. The Court is concerned about the delay in the completion of the estate administration. To expedite the administration of the estate and close the file, the Court is invoking its inherent powers and invites the beneficiaries to attend Court on 4th June, 2025 for directions as may be necessary.
 14. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 14TH DAY OF MAY, 2025.

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Mr. Wanyonyi Advocate for the Applicants

