



REPUBLIC OF KENYA



**KENYA LAW**  
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**Nganga v Nganga (Succession Cause 609 of 2012)  
[2025] KEHC 5896 (KLR) (Family) (8 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 5896 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 609 OF 2012  
HK CHEMITEI, J  
MAY 8, 2025  
IN THE MATTER OF THE ESTATE OF JOYCE WANJIRU NGANGA (DECEASED)  
BETWEEN  
FRANCIS MUCHIRI NGANGA ..... APPLICANT  
AND  
JAMES MBURU NGANGA ..... RESPONDENT**

**RULING**

1. This judgment relates to the application dated 4<sup>th</sup> December, 2012 filed by the Applicants, Francis Muchiri Nganga and Joyce Wanjiru Nganga, seeking for Orders That:-
  1. The honourable court be pleased to enjoin Francis Muchiri Nganga as a co administrator with James Nganga in this cause.
  2. The costs of this application be in the cause.
2. The application is based on the grounds thereof and supported by affidavit sworn by Francis Muchiri Nganga on 4<sup>th</sup> December, 2012.
3. He avers inter alia that he is a beneficiary of the deceased's estate, having lived with her for nearly 20 years until her death in 2011. The deceased had a son, Mr. Danson Ng'ang'a (66 years old), who is now elderly and frail. Danson, who has two wives - Agnes Wanjiku Mara and Lucy Wanjiku Mungai - should have been prioritized in the succession process according to the order of consanguinity.
4. Lucy had two children - Francis Muchiri Nganga and Joyce Wanjiru Nganga, who were raised by the deceased after their mother separated from Danson.



5. Agnes also separated from Danson and had four children - James Nganga, Mose Karua, Elijah Nganga and Eunice Wacu. He lived with the deceased and Danson until Agnes Mara took both away in February 2012, and the deceased died shortly thereafter in April 2011. After her death, Agnes and her family concealed information about the estate from him.
6. That though there was initially an agreement for him and James Muchiri Nganga to manage the estate jointly, he and his sister were later sidelined. Despite the Chief and District Officer advising cooperation, James Nganga became uncooperative under his mother's influence. Attempts at communication through lawyers were ignored and he was only later summoned for citation letters suspiciously.
7. Further that the application dated 1<sup>st</sup> March 2012 only mentions three properties and omits several others, including houses in Pumwani, land in Muruka, plots in Nanyuki and Athena Estates, farmland in Lukani/Kiribasi, and shares in various companies. He avers that the deceased bequeathed him the Pumwani House CS23, where he continues to live, paying rates and servicing the house loan personally for almost 20 years.
8. Agnes and James had attempted to evict him even before the deceased's death. He took care of Danson and the deceased without complaint, which the local chief and neighbors can confirm. He also questions the motives of Agnes and James, suggesting financial interests rather than genuine care for Danson. He asks the court to appoint him as co-administrator to protect his and his sister's interests (from Lucy Wanjiku Mungai's house), determine appropriate upkeep for Danson and ensure fair distribution of the estate; which is currently being mismanaged. He also denies that his sister Joyce gave consent to the summons for confirmation of grant dated 5<sup>th</sup> January, 2013.
9. The application is opposed vide witness statement signed by James Mburu Ng'ang'a on 28<sup>th</sup> November, 2019.
10. He avers inter alia that he is the administrator of the deceased's estate. The deceased suffered from severe chronic dementia from 2005 until her death. Her only child, Danson Ng'ang'a, now elderly and suffering from mental illness, has been under his and Agnes Wanjiku Maara's care since 2007, as medical records confirm. Danson Ng'ang'a had two wives: Lucy Wanjiru Mungai (separated in 1969) and Agnes Wanjiku Maara (separated in 1972). After the separation, Lucy remarried Mr. Ngugi and raised her children, Francis Muchiri and Joyce Wanjiru, in Nyeri. These two were brought up entirely by their stepfather and had no connection with Danson Nganga or his family.
11. Francis Muchiri (formerly Francis Muchiri Ngugi) moved to the deceased's home (House No. C23, Pumwani) in late 2007 after problems with his adoptive family. Although initially accepted, his poor behavior led to his expulsion by Danson and the deceased in 2008.
12. Afterward, the deceased provided him shelter in Ngara, and later he returned to live with the ailing Danson and the deceased due to family consensus, even though they had concerns about his behavior. Medical evidence confirmed that the deceased was mentally unfit to execute any legal documents from 2005 onward, making any supposed will created after 2008 invalid.
13. Allegations that Francis only learned of the deceased's death from third parties are false, as the death was publicly announced. Francis became aggressive, denied financial support to Danson and the deceased, and after the deceased's death, unlawfully took property documents. The family seeks a court order for their return. They assert that Francis continued renting out the house and paying bills from rental income, not his own funds. The Will presented by Francis is claimed to be fraudulent and legally invalid. Francis and Joyce are considered untrustworthy to manage the estate. He emphasizes that



Danson, the rightful main beneficiary, was evicted from his home by Francis after the deceased's passing.

14. The Applicant has filed written submissions dated 30<sup>th</sup> January, 2022, 15<sup>th</sup> February, 2022 and 16<sup>th</sup> March, 2023 and placing reliance on: *National Cereals and Produce Board v John Kirui Torongei* [2013 eKLR where the court stated, "It was wrong for the appellant to introduce a document through written submissions and it was wrong the trial court to refer to the same in its judgment."
15. The Respondent has filed written submissions dated 7<sup>th</sup> March, 2023.

### **Analysis And Determination**

16. The court has perused the record herein and it appears to me that the issues between the parties are essentially the distribution of the estate. The oral evidence conducted before Justice Abida (as she then was) was in my view not very clear on whether it was to enjoin Francis as a co administrator or distribution of the estate.
17. I have perused the oral evidence and it points to the fact that the entire thread was to enjoin Francis as a co administrator as per the application dated 4<sup>th</sup> December 2012.
18. If that is the case and as supported by the rival affidavits it is evident that Francis is the son to Danson Muchiri Nganga just as James Mburu Nganga although from different wives of the said Danson.
19. There is no doubt that Danson their father who is the son to the late Joyce Wanjiru Nganga is unwell. Nonetheless it is necessary that the estate herein proceeds to be administered to its logical conclusion.
20. It even appears that there was a Will whether valid or otherwise dated 14<sup>th</sup> June 2010 in which the deceased herein willed the Pumwani estate no CS 23 property to Francis. That Will is vehemently opposed by James arguing that the deceased was too ill to prepare it.
21. At the same time there could be other properties which are not mentioned when the cause was filed as per the affidavit of Francis.
22. For the above reasons and in view of the fact that Francis is a grandson to the deceased there is no reason why he should not be allowed to administer the estate just like his step brother. The bottom line in my view will be at the level of distribution of the estate.
23. Consequently, I direct as hereunder:-
  - (a) Francis Muchiri Nganga is enjoined as a co administrator together with James Mburu Nganga.
  - (b) The grant issued on 1<sup>st</sup> November 2012 is amended to that effect.
  - (c) The application dated 5<sup>th</sup> December 2012 be fixed for hearing forthwith.
  - (d) Within 30 days from the date herein either of the Parties/Administrators be at liberty to file further affidavits in support or otherwise to the above application.
  - (e) Status quo obtaining at the time of this ruling in the estate be maintain pending the conclusion of this cause.
  - (f) Costs in the cause.

**DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 8<sup>TH</sup> DAY OF MAY 2025.**

**H K CHEMITEI**



**JUDGE**

