



REPUBLIC OF KENYA



**In re Estate of Shelmth Wanjiru Tatua (Deceased) (Succession Cause
1271 of 2002) [2025] KEHC 8535 (KLR) (Family) (19 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8535 (KLR)

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

FAMILY

SUCCESSION CAUSE 1271 OF 2002

HK CHEMITEI, J

JUNE 19, 2025

**IN THE MATTER OF THE ESTATE OF THE
LATE SHELMTH WANJIRU TATUA (DECEASED)**

BETWEEN

JAYNE WANJIKU TATUA APPLICANT

AND

EUNICE WANGUI MURIITHI 1ST RESPONDENT

WINNIE LUCY MUTHONI WAIGWA 2ND RESPONDENT

RULING

1. In her application dated 8th September 2021 the Applicant seeks orders that:-
 - (a) William Gitiche Tatua one of the joint administrators and who is now deceased be substituted with the name Jayne Wanjiku Tatua and a new grant of letters of administration and certificate of confirmation of grant be issued.
 - (b) In the schedule William Gitiche Tatua now deceased be substituted with the name of Jayne Wanjiku Tatua.
2. The application is based on the grounds thereof and the sworn affidavit of the Applicant dated the same date.
3. She avers that she is the sole widow of the deceased, William Gitiche Tatua who was a joint administrator in the estate herein. This estate belonged to his late mother and therefore her mother-in-law.



4. That since he passed on there was need for her as his wife to substitute him so that she could carry out whatever interest he had.
5. She deponed that she had no objection to the application dated 7th November 2019 for confirmation of grant as long as her name replaces that of her late husband.
6. In her replying affidavit sworn on 12th April 2021 Eunice Wangui Murithi has vehemently opposed the said application arguing among others that it cannot stand for the simple reason that in terms of degree of consanguinity the Applicant was way far as opposed to them.
7. She said that the two remaining administrators in law can still go ahead to finalise the estate.
8. In any case there was no reason to substitute the deceased administrator as his interest were clear and were well secured.
9. That the Applicant had other ulterior motives namely locking out the family of the widow namely Linda Miyande Selebwa and her children who had equal rights over William's estate just like the Applicant.

Analysis and determination.

10. I have perused the application and the replies to it as well as the history of this cause and the related file, namely Cause No. 2071 of 2002.
11. In that cause I directed the two remaining administrators to finalize the distribution of the estate. There is no reason to include the Applicant as a joint administrator to replace her deceased husband. His rights over his mother's estate are clear based on the affidavits on board.
12. Section 81 of cap 160 is explicit on this. It states:-

“Upon the death of one or more of several executors or administrators to whom a grant of representation has been made, all the powers and duties of the executors or administrators shall become vested in the survivors or survivor of them:

Provided that, where there has been a grant of letters of administration which involve any continuing trust, a sole surviving administrator who is not a trust corporation shall have no power to do any act or thing in respect of such trust until the court has made a further grant to one or more persons jointly with him.”
13. At the same time my understanding of the Respondent's objection is not that they are opposed to the rights of their late brother. Adding her as an administrator will not be efficacious for the reason that it will delay the process and more importantly in terms of degree of consanguinity she was way far from the Respondents.
14. The issue raised concerning the Applicant's co- widow for now is not necessary in this cause but will be applicable in the estate of William. The two ladies can square out the differences if any once the portion due to William in both the estate of his mother and father are clearly delineated and each of the beneficiaries is bequeathed respective rights.
15. In the premises I do not find merit in the application and the same is disallowed.
16. The application for confirmation of grant and the eventual distribution of the estate be undertaken forthwith and within 30 days from the date herein.
17. Costs in the cause.



DATED SIGNED AND DELIVERED VIDE VIDEO LINK THIS 19TH DAY OF JUNE 2025.

H K CHEMITEI

JUDGE

