



REPUBLIC OF KENYA



In re Estate of the Late Eustace Tatua Gitichu (Deceased) (Succession Cause 1270 of 2002) [2025] KEHC 8712 (KLR) (Family) (19 June 2025) (Ruling)

Neutral citation: [2025] KEHC 8712 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

FAMILY

SUCCESSION CAUSE 1270 OF 2002

HK CHEMITEI, J

JUNE 19, 2025

IN THE MATTER OF THE ESTATE OF THE LATE EUSTACE TATUA GITICHU (DECEASED)

BETWEEN

EUNICE WANGUI MURIITHI 1ST APPLICANT

WINNIE LUCY MUTHONI WAIGWA 2ND APPLICANT

WILLIAM GITICHE TATUA (DECEASED) 3RD APPLICANT

AND

JAYNE WANJIKU TATUA RESPONDENT

RULING

1. In their application dated 12th April 2023 the Applicants are praying for orders that:-
 - (a) An order be issued consolidating this succession cause with Milimani HC Succession Cause No. 1271 of 2002, in the matter of the estate of Shelmith Wanjiru Tatua.
 - (b) Upon consolidation a preservative order, be issued restraining the Respondent by herself, her agents or employees or any other persons from intermeddling with the estate pending hearing and determination of the application for distribution of the estate.
 - (c) Messer's Patrick Law Associates either by themselves their servants' employees advocates and or agents be disqualified from acting and or continuing to act for the Respondent in the consolidated suits.
 - (d) All pleadings and other documents filed in the suits by Messer's Patrick Law Associates on behalf of the Respondent be and are hereby expunged from the court record.



- (e) Costs be provided for.
2. The application is premised on the grounds thereof and the sworn affidavit of Eunice Wangui Murithi and the grounds thereof.
 3. The application is opposed by the Respondent vide her replying affidavit sworn on 13th March 2025.
 4. Briefly the substance of the application is that the deceased was a father to the Applicants and a father-in-law to the Respondent. Grant was issued to the Applicants who included the late William Tatua the Respondent's husband.
 5. The Applicants had also filed in this court Succession Cause No. 1271/2002 in the matter of Shelmith Wanjiru Tatua who was their mother.
 6. It is their case that the two files be consolidated for ease of management and costs. That the administrators as well as the beneficiaries are similar hence the need to have the two consolidated.
 7. They have also urged the court to bar the firm of Patrick Law Associates from acting on behalf of the Respondent for there is a conflict of interests. That the said firm has so much information regarding the estate and they feel that they cannot qualify to act for the Respondent who was now at cross purpose with them after the demise of their brother who was a co administrator.
 8. She deponed that the said firm had much confidential information which could utilize against the estate noting that the Respondent had been intermeddling with the estate.
 9. They attached copies of photographs indicating the extent to which the Respondent had intermeddled with the estate. The said photos show some trees which were allegedly felt by the Respondent.
 10. The Respondent on her part has opposed the consolidation of the two files. She argued that the properties contained in the two suits are different and the best approach was to determine and or hear them side by side.
 11. As to the prayer to disqualify their counsel from acting for her, the Respondent disputed the same noting that she had every right of choosing a counsel of her own choice and that this was a constitutional imperative. That they have not pinpointed any example or issue which was likely to cause the said firm to be witnesses or at all.

Analysis and determination

12. I have perused the application and the entire record in this cause as well as the pleadings on board.
13. I do not respectfully see any reason for consolidating the two matters. Although three administrators and the beneficiaries of the two estates of their parents are similar, the properties in question are not necessarily similar.
14. At the same time if there are issues which may arise regarding the mode of distribution for example those which have been raised by the Respondent in her replying affidavit it becomes easier to deal with them independent of the other cause.
15. On the issue of the law firm of Patrick Law Associates ceasing to act for the Respondent I do not find any reason to support the assertion. I have strived to look for any reason and I think the whole think is based on speculation. Nonetheless at the right time and if necessary, the court can revisit it if at all there could be a conflict of interest proven.



16. My view is that the parties ought to concentrate on determining the estate once and for all. Even if the late William passed on the law presupposes that the remaining administrators ought to conclude the estate.
17. Elsewhere the Respondent in her affidavit 8th September 2021 has consented to the grant being confirmed only that what was supposed to be for her husband must be transmitted in that manner.
18. In the premises and based on the period this matter has taken and so as to forestall any interference or intermeddling with the estate the court directs that:-
 - (a) The grant issued on 30th July 2002 is hereby rectified by removing the name of William Gitiche Tatua and fresh grant issued to Eunice Wangui Mureithi and Lucy Muthoni Waigwa.
 - (b) The application dated 19th November 2019 be set down for hearing within 30 days from the date herein.
 - (c) Costs in the cause.

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

H K CHEMITEI

JUDGE

