



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Johanna Kariuki Githinji (Deceased) (Succession Cause
647 of 2015) [2025] KEHC 8412 (KLR) (16 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8412 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE 647 OF 2015**

PN GICHOHI, J

JUNE 16, 2025

**IN THE MATTER OF THE ESTATE OF THE LATE
JOHANNA KARIUKI GITHINJI (DECEASED)**

RULING

1. This Ruling concerns the alleged mode of distribution proposed by rival parties in the estate of the late Johanna Kariuki Githinji (Deceased). The first proposed distribution, dated 5th December, 2023, was filed by Mary Wanjiku Kariuki, the deceased's widow, on behalf of the second family.
2. According to the second family, the only property for distribution is land reference number Bahati/Kabatini Block 1/14, measuring approximately 1.6 acres. It is stated that this property has already been subdivided into ten plots, which they propose to share equally among all beneficiaries. Regarding land reference number Rongai/Lengenet Block 5/55, measuring approximately 3 acres, Mary Wanjiku stated that it was sold with all the beneficiaries' consent for a consideration of KShs. 690,000.
3. Subsequently, that the funds received from the said parcel of land were used to pursue the succession cause, obtain the deceased's death certificate, pay agents or brokers, subdivide Bahati/Kabatini Block 1/14 and the balance was deposited in her account for her upkeep due to her advanced age.
4. The second proposed mode of distribution was filed by James Peter Kariuki Mararo, a son of the deceased from the first house, on 7th December, 2023. Mr. Mararo claims the estate includes two properties; Bahati/Kabatini Block 1/14 and Rongai/Lengenet Block 5/55. He disputes Mary Wanjiku's sale of Rongai/Lengenet Block 5/55, alleging she failed to distribute its proceeds between the two families. He also disputes the expenditure account from this sale, demanding an accurate financial report with receipts.
5. Mr. Mararo proposes that if Mary Wanjiku fails to provide such an account, the remaining property, Bahati/Kabatini Block 1/14, should be distributed to the first family to compensate the beneficiaries who did not receive a share of the proceeds of Rongai/Lengenet Block 5/55.



6. He further states that despite an earlier agreement to lease a portion of Bahati/Kabatini Block 1/14, the second family allegedly subdivided it without consulting all the other beneficiaries and purportedly sold part of it to third parties.
7. Mr. Mararo also asserts that the deceased was polygamous and his estate should be shared equally between his two widows, proposing that 2/3 of Bahati/Kabatini Block 1/14 be shared equally among the beneficiaries of the first family, reiterating that since their step mother sold Rongai/Lengenet Block 5/55, she should be compelled to render a true account of the proceeds. Additionally, that due to these unaccounted proceeds, this fact must be considered in the distribution of Bahati/Kabatini Block 1/14, with the lion's share going to the first family as per his proposed mode of distribution.
8. The history of this matter is that this Succession Cause was initiated on 6th October, 2015. The Grant of Letters of Administration was issued on 1st December, 2015 to James Peter Kariuki Mararo (a son from the first family) and Francis Kimotho (a son from the second family) as administrators of the estate of the deceased. The Grant was confirmed on 20th May, 2016, where both Bahati/Kabatini Block 1/14 and shares with Katundura Farmers' Co-operative Society Ltd were bequeathed to Mary Wanjiku Kariuki Githinji (the deceased's widow).
9. The confirmation of the Grant bequeathing the entire net intestate estate to the deceased widow, triggered the filing of an application for revocation of Grant by Gabriel Warurii Kariuki (a son from the first family).
10. On 25th September, 2023, T.A. Odera, J ruled on the summons for revocation as follows: -
 - i. The letters of administration issued to the petitioners herein on 1st December 2015 and confirmed on 20th May 2016 be and are hereby revoked.
 - ii. Respondent Wanjiku Kariuki to return the revoked letters of administration and confirmed grant to court within 14 days from today.
 - iii. Land parcels numbers Bahati /Kabatini /Block 1 /14 and Rongai /Lengenet Block 5/55 be reverted back to the name of the deceased herein.
 - iv. An order be and is hereby issued to land registrar to preserve the estate of the deceased by placing restrictions on any dealings on land parcels numbers Bahati /Kabatini /Block 1 /14 and Rongai /Lengenet Block 5 /55 or any titles born from them until an administrator is appointed by the court.
 - v. Each party to bear his own costs as this is a family matter.
 - vi. Mention on 22/11/2023.
30 days Right of Appeal.
11. Despite being aware of these orders, when the parties appeared before the court on 22nd November, 2023, Mr. Machoka Advocate, representing the protestor, intimated to the Court that the Grant has been revoked.
12. However, he proceeded to propose that parties file schedules for distribution of the estate. Before this was done, this matter was referred to AJS for settlement but no agreement was reached, reverting the issue to this court for hearing and determination.
13. The *Law of Succession Act* (Cap 160), generally provides that a Grant of Representation bestows authority upon an executor or administrator to manage, collect, and distribute the deceased person's



assets. However, this authority is not absolute. Section 76 of the Law of Succession Act, Cap 160, outlines the grounds for revocation or annulment of a grant, including defective proceedings, fraudulent procurement, untrue allegations of essential facts, failure to proceed diligently or account, or the grant becoming useless and inoperative.

14. The revocation of a grant has significant consequences, as it immediately terminates the legal authority of the previous administrator. This means the former administrator(s) can no longer manage the estate's assets or undertake any administration, and their mandate is extinguished. Consequently, any actions taken by the former administrator after revocation are unauthorised and may constitute intermeddling with the estate under Section 45 of the Act, unless specifically permitted by a new court order for preservation.
15. In spite of this, Section 93 of the Act aims to protect innocent purchasers and provides that: -

“ All transfers of any interest in immovable or movable property made to a purchaser either before or after the commencement of this Act, by a person to whom representation has been granted shall be valid, notwithstanding any subsequent revocation or variation of the grant either before or after the commencement of this Act.(2)A transfer of immovable property by a personal representative to a purchaser shall not be invalidated by reason only that the purchaser may have notice that all the debts, liabilities, funeral and testamentary or administration expenses, duties, and legacies of the deceased have not been discharged nor provided for.”
16. Generally, legitimate acts carried out by the administrator in good faith before the revocation of Grant are protected, especially if the third party had no knowledge of any defect. However, this protection is not absolute; fraudulent or collusive transactions, or those undertaken in bad faith by the administrator (even before revocation), or if the third party was aware of defects, may still be set aside by the court. Accordingly, while Section 93 protects purchasers, it does not shield a fraudulent or negligent administrator from accountability to the estate and beneficiaries.
17. The second effect of revocation of grant is the interruption or invalidation of the estate's administration process, requiring proper legal administration to resume. Undistributed assets remain un-administered, compelling the court to direct an application for a fresh grant, potentially appointing administrators afresh to restart the process from the point of defect or entirely.
18. Thirdly, former administrators may be compelled to render a full and accurate account of their administration during their tenure, detailing assets collected, debts paid, income generated, and distributions made.
19. Lastly, any distribution of assets made under a revoked grant, especially if unconfirmed or based on flawed proceedings, is critically impacted, necessitating a fresh and lawful distribution to ensure no rightful beneficiary is disinherited or overlooked.
20. Similarly, in this case, since the Grant of letters of Administration issued on 1st December, 2015 and confirmed on 20th May, 2016 have been revoked , and there being no fresh grant filed, both proposed modes of distribution filed by the parties are misconceived, incompetent and improper before this court. In conclusion, this Court makes the following Orders:-
 1. The proposed modes of distribution filed by the parties herein are struck out with parties bearing their own costs.



2. The parties herein are directed to comply fully with the Orders of this Court issued on 25th September, 2023 and file fresh Grant of letters of administration within the next 30 days.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 16TH DAY OF JUNE, 2025.

PATRICIA GICHOHI

JUDGE

In the presence of:-

Mr. Machoka Holding brief for Mr. Githui for Protestor

N/A for all other parties

Ruto , Court Assistant

