



REPUBLIC OF KENYA



**In re Estate of Francis Wainaina Thuo (Deceased) (Succession Cause
195 of 2009) [2025] KEHC 8121 (KLR) (Family) (12 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8121 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 195 OF 2009
HK CHEMITEI, J
JUNE 12, 2025
IN THE MATTER OF THE ESTATE OF FRANCIS WAINAINA THUO (DECEASED)
IN THE MATTER OF
DAVID THUO WAINAINA APPLICANT**

RULING

1. This ruling relates to the application dated 25th October, 2023 filed by David Thuo Wainaina seeking for orders that:-
2. The court do order the Applicants co – administrators Hannah Warui and Warui Thuo to hand over to the Applicant the:-
 - a. Original titles for LR No Sigona/1236, LR No Dagoretti/Kinoo/4430, LR No 1308 Mwembelegeza Settlement Scheme, Documents for Plot No D IV located South East of Naivasha Town, Plot No 29 on the sub – division plan of residential Plot No D IV located East of Naivasha Town and
 - b. Original Logbook for motor vehicle registration numbers KBC XXXL, KBB XXXF and KBJ XXXN.
3. The court do issue an order that the Deputy Registrar do sign all the relevant document to effect transfer and transmission of the properties of the Estate to the respective beneficiaries.
4. The Deputy Registrar do sign all the relevant documents required by ABSA (formerly Barclays Bank of Kenya) in respect of Account Nos. 0168XXXXXX, 0164XXXXXX and Consolidated Bank account number 02300XXXXXXX to transfer the funds therein to the beneficiaries or in the Alternative order ABSA (formerly Barclays Bank of Kenya) Nkrumah Road branch and Consolidated Bank Nkrumah Road branch to dispense with signatures of Hannah Warui and Warui Thuo and transfer the funds in the respective accounts to the account each beneficiary shall provide.



5. The application is based on the grounds on the face thereof and supported by affidavit sworn by David Thuo Wainaina on 23rd October, 2023.
6. He avers inter alia that he is one of the administrators of the deceased's estate, alongside his stepmother, Hannah Warui and his uncle, Warui Thuo. They were granted letters of administration on 29th September, 2011, with the grant being confirmed on 5th December, 2016 and later rectified on 29th July, 2020. Despite his efforts, the estate remains undistributed, causing hardship to him and the other beneficiaries, who are now all adults and entitled to their shares.
7. That Hannah Warui and Warui Thuo have not provided any explanation for the delay. Although his lawyers prepared and forwarded the transfer documents for their signatures, there has been no response. Additionally, bank officials informed him that all three administrators must sign for the release of funds in the respective bank accounts. He shared this requirement with the co-administrators, but they have yet to take any action.
8. Although the application is unopposed, it is the duty of the Court to nevertheless subject it to a merit evaluation in accord with the applicable laws and principles. Indeed, in *Gideon Sitelu Konchellab v Julius Lekakeny Ole Sunkuli & 2 others* [2018] eKLR the Supreme Court of Kenya held that:

“...as a court of law, we have a duty in principle to look at what the application is about and what it seeks. It is not automatic that for any unopposed application, the Court will as a matter of course grant the sought orders. It behooves the Court to be satisfied that prima facie, with no objection, the application is meritorious and the prayers may be granted. The Court is under a duty to look at the application and without making any inferences on facts point out any points of law, such as any jurisdictional impediment, which might render the application a non-starter. We see no such jurisdictional issue in the application before us. Hence we have proceeded to consider the facts before us as against the jurisprudence for grant of stay orders set by this Court...”
9. In view of the fact that all the beneficiaries have attained the age of majority I find there is need to comply with the grant on the part of the administrators.
10. The application is therefore allowed.
11. Costs in the cause.

DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 12TH DAY OF JUNE 2025.

H K CHEMITEI
JUDGE

