



REPUBLIC OF KENYA



KENYA LAW
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In re Estate of Reuben Kiambuthi alias Jones Reuben Kyambuthi (Deceased) (Succession Cause 99 of 1997) [2025] KEHC 8120 (KLR) (Family) (12 June 2025) (Ruling)

Neutral citation: [2025] KEHC 8120 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 99 OF 1997
HK CHEMITEI, J
JUNE 12, 2025
IN THE MATTER OF THE ESTATE OF THE LATE REUBEN
KIAMBUTHI ALIAS JONES REUBEN KYAMBUTHI (DECEASED)

BETWEEN

LUCY WANJIKU KYAMBUTHI APPLICANT

AND

PETER NGUGI KIAMBUTHI RESPONDENT

RULING

1. In her application dated 5th February 2024 the Applicant seeks orders that:-
 - (a) Leave be granted to parties to adopt the orders in this matter to commence the hearing de novo following the directions by Honorable Lady Justice Achode dated 4th July 2019.
 - (b) Costs of the application.
2. The application is based on the grounds thereof and the Applicant's sworn affidavit dated the same date.
3. The Applicant's contention is that the matter ought to proceed in the manner directed by Achode J (as she then was) in which she ordered that the matter proceeds de novo. She has also raised several concerns about the veracity of the courts proceedings earlier undertaken.
4. She deponed that several paragraphs of the proceedings are inaccurate and does not point to the evidence so far adduced.



5. The Respondent on his part has opposed the application arguing that one of the witnesses, namely her mother Margret Wambui Kiambuthi has since passed on and therefore the matter cannot be permitted to begin afresh.
 6. The court has perused the application as well as the submissions by the Applicant.
 7. What is evidently clear is that Lady Justice Achode (as she then was) after hearing the parties on 4th June 2019 directed that the same ought to begin afresh. That order still remains intact. The Respondent never challenged it by way of review or appeal.
 8. The court is conscious of the Respondent's fears concerning the demise of the widow Margaret. Her evidence of course cannot be procured afresh.
 9. However, this cannot stop the matter beginning afresh as the court had directed. If there is any need to adopt the evidence of Margaret at the appropriate time then the Respondent can move the court or get a consent from the other parties.
 10. The matter however must be allowed to proceed as directed.
 11. In the premises, the application is allowed, the matter to begin afresh as directed by the court on 4th June 2019.
 12. The matter to be heard and determined by Honorable Lady Justice Kendagor to its logical conclusion.
- conclusions

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

H K CHEMITEI

JUDGE

