



REPUBLIC OF KENYA



In re Estate of the Late Nelius Muguru Mwangi (Deceased) (Succession Cause 1545 of 2018) [2025] KEHC 8134 (KLR) (Family) (12 June 2025) (Ruling)

Neutral citation: [2025] KEHC 8134 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 1545 OF 2018
HK CHEMITEI, J
JUNE 12, 2025
IN THE MATTER OF THE ESTATE OF THE
LATE NELIUS MUGURU MWANGI (DECEASED)

BETWEEN

LUCY MARY MUTHONI GICHUHI APPLICANT

AND

MARY NJERI MWANGI 1ST RESPONDENT

FRANCIS BABU WAITHIRA 2ND RESPONDENT

RULING

1. In her application dated 28th October 2024 the Applicant seeks orders that:-
 - (a) The court grants preservative orders to prevent the 2nd Respondent from receiving rent or utilizing money or dealing in any other way with property number Mathare North 819250.
 - (b) The rental income from LR Mathare North 819250 be deposited in court or the court directs opening of an account for the said property.
 - (c) That the 1st and 2nd Respondents by an order of this court produce statements of Accounts No 01109579xxxxx Cooperative Bank River Road branch prior to closing of the same and account for LR No Mathare north 819250 income account.
 - (d) That one, the executor Mary Njeri Mwangi Respondent herein failed to render true and accurate accounts of all the accounts and of all the dealings in the estate of the deceased before the confirmation of the grant on the 22nd April 2022.



- (e) That the grant of probate issued on 12th April 2024 be revoked on the ground that the accounts for property No Mathare north LR 810250 and account No 001109xxxxxxx Cooperative Bank that was in operation since 2017 until 2022 on the eve of the proceedings be disclosed and declared Francis Babu Waithira (beneficiary) executor and Mary Njeri Mwangi (executor) and be included in the list of assets for the estate of Nelius Muguru Mwangi (deceased).
- (f) The Respondents be ordered to produce all monies due to the estate in rent account for Mathare north LR 810250 in the bank account Cooperative bank river road branch a/c no 001109xxxxxxx which monies were never declared at the time of acquisition of ad coligenda bona and before confirmation of grant.
2. The application is based on the sworn affidavit of the Applicant dated 11th September 2024.
 3. The gist of the application is that the Respondents prior to the grant being confirmed ran the aforestated account at Cooperative Bank of Kenya River Road branch and the proceeds from the Mathare north premises were deposited therein.
 4. That there was as well a business known as Angle Bar Lodging and Restaurant which existed and the proceeds taken by the Respondents and not disclosed before the grant was confirmed.
 5. For the reasons therefore the grant in their view ought to be revoked.
 6. The Respondents filed the grounds of opposition dated 14th October 2024 as well as the replying affidavit by the 1st respondent sworn on 25th October 2024.
 7. They argue that there was no evidence tendered by the Applicant at all showing existence of the said account at Cooperative Bank and that the Angle Bar Lodging and Restaurant was not known to them.
 8. Further that the property named as Mathare North 810250 has been included in the grant contrary to what the Applicant stated that it was left out.
 9. I have perused the application carefully and I do agree with the position taken by the Respondents. There is no evidence that they ran an account at Cooperative Bank River Road which was closed before the grant was confirmed. If it was existing then it was incumbent upon the Applicant to provide such records and or evidence.
 10. The same goes with the Angle Bar Lodging and Restaurant business. No evidence of whatever nature has been provided by the Applicant save what he deponed in her affidavit. In fact, the Respondents demonstrated that the same was registered under one Ngugi Nganga vide certificate no 109995 dated 27th June 1985.
 11. This position was not contradicted by the Applicant whatsoever.
 12. The Mathare property namely LR 810250 is clearly contained in the confirmed grant unless there is another property known by the Applicant under that name.
 13. In essence all that the Applicant ought to have done is to seek for the grant to be rectified so as to include other assets of the estate left behind. It is not prudent and expedient to cancel or revoke the grant simply because some other assets were allegedly left behind.
 14. In any case before the grant was confirmed the issues raised by the Applicant including provisions of accounts ought to have taken center stage. This would have included taking of accounts of any alleged business as well as disclosure of any bank accounts.
 15. I do not find any merit in the application and it is therefore dismissed with costs.



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

H K CHEMITEI

JUDGE

