



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**In re Estate of Ngii Munyao Ngao (Deceased) (Succession Cause 517 of 2012) [2025] KEHC 7933 (KLR) (5 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 7933 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
SUCCESSION CAUSE 517 OF 2012**

**EN MAINA, J**

**JUNE 5, 2025**

**IN THE MATTER OF THE ESTATE OF NGII MUNYAO NGAO (DECEASED)**

**BETWEEN**

**DANSON MUNYAO MUTISYA ..... APPLICANT**

**AND**

**BETH KASELE NGII ..... ADMINISTRATOR**

**RULING**

1. Before this court is the Summons dated 20<sup>th</sup> January 2025 for revocation of grant. The same seeks that the grant of letters of administration intestate issued to Beth Kasele Ngii on 20<sup>th</sup> September, 2012 and confirmed on 22<sup>nd</sup> February 2023 be revoked or annulled and the title deeds issued pursuant to the confirmed grant be cancelled and the estate revert to the deceased Ngii Munyao Ngao. The parcels sought to be affected are LR No Athi River Block 5/59, LR No Mbiuni/Kabaa/414 and LR No Mbiuni/Kabaa/409.
2. The summons for revocation is premised on grounds that the proceedings to obtain the grant were defective in substance, that the grant was obtained fraudulently by the making of a false statement or the concealment from the court of something material to the case and finally that the grant was obtained by means of an untrue allegation of a fact essential in point of law.
3. The Summons was opposed through a replying affidavit sworn by the Respondent on 12<sup>th</sup> March, 2025. The Respondent deposes that the succession process herein was conducted with the full participation of all the children of the deceased, who are also her children, who include the applicant's family and that the applicant has not provided any valid reason for revocation of the grant herein as required by law.



## Submissions

4. The application was canvassed by way of written submissions. In his submission, Counsel for the Applicant reiterated that the grant was obtained fraudulently by the concealment of material facts. Counsel contended that the Administrator concealed the fact that the applicant's father, Timothy Mutisya Ngii (deceased), was a son of Ngii Munyao Ngao (deceased) and was survived by a wife, three sons and four daughters. According to Counsel, unless the orders sought are granted, the Applicant and his family who are rightful beneficiaries of the deceased's estate will be disinherited.

## Determination and Analysis

5. This court has considered the application, the affidavits, the submissions on record and the law.
6. The Applicant herein is a grandson of the deceased – a son to the deceased's son, one Timothy Mutisya Ngii who is now deceased, but who at the time this petition was filed was still alive as he died on 21<sup>st</sup> March 2016. According to the letter filed by the Chief of the area where the deceased was domiciled, the deceased was 58 years old. The letter sets out the names of the wife and children of the deceased and also states that the deceased had a daughter who had passed away.
7. The father of the Applicant Mutisya Ngii, is listed in the letter as one of the children of the deceased. He is also named in Form P&A 5 as one of the survivors of the deceased. The form P&A 5 is an affidavit sworn by the Respondent herein on 2<sup>nd</sup> May 2012 in support of the petition. The Applicant's father is also named as one of the beneficiaries in the supporting affidavit sworn by the Respondent in support of the summons for confirmation of grant dated 4<sup>th</sup> February 2013. It is pursuant to that summons that the court confirmed the grant herein and with the consent of the beneficiaries bequeathed the whole of the estate, to wit, LR Athi River/Athi River Block 5/59, LR. Mbiuni/Kabaa/414 & LR No Mbiuni/Kabaa/1409 to the Administrator, the widow of the deceased who is also the mother of the Applicant's father. The confirmed grant is dated 25<sup>th</sup> February 2025.
8. It is clear from the proceedings that all was done above board as the Administrator was the widow of the deceased and all her adult children including the father of the Applicant were aware of the proceedings and had consented.
9. A grant can only be revoked if it is demonstrated that the situations set out in Section 76 of the *Law of Succession Act* have arisen. Those situations are:

“76. Revocation or annulment of grant

A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion—

- (a) that the proceedings to obtain the grant were defective in substance;
- (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
- (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;



- (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either—
  - (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or
  - (ii) to proceed diligently with the administration of the estate; or
  - (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
- (e) that the grant has become useless and inoperative through subsequent circumstances.”

10. None of the above situations have arisen in this case. The ground given by the applicant, which is that his uncles are taking advantage of his elderly grandmother, is not one of the above situations and accordingly I find no merit in the summons and it is dismissed.

Orders accordingly.

**RULING SIGNED, DATED AND DELIVERED VIRTUALLY ON THIS 5<sup>TH</sup> DAY OF JUNE 2025.**

**E. N. MAINA**

**JUDGE**

In the presence of:

Mrs Kalinga for Respondent

No appearance for Mr. Kamolo for the Applicant

No beneficiaries

Geoffrey – Court Assistant

