



REPUBLIC OF KENYA



**In re Estate of the Late Winnie Waruiru Kamau (Deceased) (Succession Cause E3366 of 2022) [2025] KEHC 7635 (KLR) (Family) (5 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 7635 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE E3366 OF 2022  
HK CHEMITEI, J  
JUNE 5, 2025**

**BETWEEN**

**SUSAN NGINA NGUGI ..... APPLICANT**

**AND**

**EVANSON KAMAU NGUGI ..... RESPONDENT**

**RULING**

1. In her application dated 27<sup>th</sup> November 2024 the Applicant prays for orders among others that the firm of Patrick Muchiri Gachara of Muchiri Gachara & Company Advocates cease acting for the Respondent and that all the pleadings filed by the said advocate be expunged from the record.
2. Her supporting affidavit speaks of her disappointment with the said counsel basically on the ground that he was privy to much information about the estate and the deceased for that matter.
3. That he was involved in the deceased funeral committee and therefore fully briefed of the many issues pertaining to the estate. She went on to depone that the said counsel is closely related to the Respondent's wife and that some of the tenants living in the estate's premises are uncooperative because they are related with the said advocate.
4. The said tenants are living in the property known as Kiambaa/ Kihara/8491 which is a subject of contention herein and that he was a potential witness.
5. The Respondent has opposed the application vide his replying affidavit sworn on 16<sup>th</sup> December 2024 arguing that the same was misconceived and that he was entitled to get a counsel of his choice. That the Applicant was obsessed with his wife and that is the reason she wanted the counsel to be disqualified.



6. I have perused the rival affidavits and the submissions on board. What is asked by the Applicant is far reaching as it infringes on the rights of a party to legal representation as espoused in our constitution. The same cannot be easily challenged unless there are sufficient and cogent reasons.
7. I have perused her affidavit and respectfully save for the issue of relationship between the counsel's wife and the Respondent and by extension the Applicant I do not see any secrets which the counsel possess. If there are such crucial and vital information regarding the estate then the same are within the Applicant's knowledge and yet to be brought before the court.
8. If the counsel participated in the burial committee of the deceased, I do not find any evidence of any secrets under his armpit that should warrant his disqualification from acting on behalf of the Respondent.
9. I think the proper test shall be when the issue or the differences between the Applicant and the Respondent come to fore. If indeed there is such information which may require him as a witness, then the same can be brought out at that juncture.
10. It was incumbent upon the Applicant to prove such but as it were she has not brought herself within the purview of Section 107 and 108 of the *Evidence Act*. She has not established any evidence on the question of client's confidentiality between the deceased and the advocate.
11. Consequently all is not lost for the Applicant for at the right time she will be able to raise such conflict of interest if there is. For now however what I find before me is not material enough to warrant a disqualification of the said counsel from acting for her brother the Respondent.
12. The best way is to have the grant issued on 28<sup>th</sup> February 2023 confirmed so that the real issue in controversy can be brought out including the question of the tenants among others.
13. The application is otherwise dismissed with no order as to costs.

**DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAIROBI THIS 5<sup>TH</sup> DAY OF JUNE, 2025.**

**H K CHEMITEI**

**JUDGE**

