



REPUBLIC OF KENYA



**Maina v Maina (Succession Cause 167succ of 2008)  
[2025] KEHC 8881 (KLR) (18 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8881 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
SUCCESSION CAUSE 167SUCC OF 2008**

**JM NANG'EA, J**

**JUNE 18, 2025**

**BETWEEN**

**JOHN GACHARA MAINA ..... APPLICANT**

**AND**

**MARGARET WANJIRA MAINA ..... RESPONDENT**

**RULING**

1. By Notice of Motion dated 2218/2024 the Applicant prays for orders as hereunder;-
  1. Spent
  2. That rental income collected from plot No. A116 Umoja Innercore Section 1 – Nairobi be deposited into a joint bank account in the names of the Applicant and the Respondent.
  3. That the Respondent does provide a just and transparent account of the estate including detailed financial reports/statements.
  4. That the Applicant be granted his rightful half share of rental income from the stated plot amounting to Kshs. 4,300,000/= from January 2021 to the time of bringing this application.
  5. Any other order/relief deemed fit to grant.
  6. That the costs of the application be in the cause.
2. The Applicant swore an affidavit in support of the application stating inter alia that the Respondent is his sister. He avers that the property in question fetches an average rental income of Kshs. 200,000/= per month. Despite also investigating in renovations to the property, the Respondent is allegedly appropriating the rental income alone.
3. The Respondent opposes the application vide her affidavit in reply. She contends that in fact there is no dispute over the property. Her deceased father is said to have bequeathed the same to her by Will



adopted by the court. She, however, alludes to an error in the confirmation of the Grant of Letters of Administration herein, the Certificate of Confirmation of Grant dated 3<sup>rd</sup> December 2009 showing that the contentious property was granted to the Applicant and Respondent in “whole share”.

4. The Respondent states that the property is exclusively hers and the Certificate of Confirmation of Grant has created confusion as to transmission of the property.
5. The Applicant put in a further affidavit reiterating the averments in his affidavit in support of the motion. He contends that any Will of their deceased father is inapplicable since Grant of Letters of Administration herein was issued intestate and the property is shared out to both of them. The Applicant referred to a ruling of my brother (H. M. Nyaga J) delivered on 5/6/2024 in which it was observed that there was nothing to litigate over since transfers of the parties' respective shares of the property had been done. According to the Applicant, the property was registered jointly in his name and that of the Respondent.
6. The parties filed written submissions through their advocates which I have perused against the rival affidavit evidence and the record. Grant of Letters of Administration herein has already been confirmed and the estate transmitted to beneficiaries. None of the substantive relief sought can therefore be granted in the circumstances. If the Applicant craves review or rectification of the Certificate of Confirmation of Grant on account of any error thereof, then an appropriate application may be lodged for the court's determination.
7. For the stated reasons, the application is dismissed with no order as to costs.

**J. M. NANG'EA, JUDGE.**

**JUDGEMENT DELIVERED VIRTUALLY THIS 18TH DAY OF JUNE 2025 IN THE PRESENCE OF:**

Mr. Korongo Advocate for the Administrator and holding brief for Mr. Akolo Advocate for the Respondent

Mr. Ochangu Advocate for the Applicant

The Court Assistant (Jeniffer)

**J. M. NANG'EA,**

**JUDGE.**

