



**Estate of Edith Wambui Waithaka(Also Known as Edith Wamboi Waithaka
and also Known as Eddith Wambui Waithaka (Deceased) (Succession
Cause 27 of 2019) [2025] KEHC 10639 (KLR) (16 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10639 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE 27 OF 2019**

JM NANG'EA, J

JULY 16, 2025

**IN THE MATTER OF THE ESTATE OF EDITH WAMBUI
WAITHAKA(ALSO KNOWN AS EDITH WAMBOI WAITHAKA AND
ALSO KNOWN AS EDDITH WAMBUI WAITHAKA (DECEASED)**

BETWEEN

MARGARET WANGUI ADEGO APPLICANT

AND

DOUGLAS GAKUO WAITHAKA ADMINISTRATOR

AND

LUCY NJOKI WAITHAKA ADMINISTRATRIX

AND

DORIS WANJIRU WAITHAKA 1ST RESPONDENT

KENNEDY NJOROGE WAITHAKA 2ND RESPONDENT

RULING

1. Four Applications dated 13/2/2024, 23/4/2025, 24/4/2024 and 25th April 2025 are pending determination. On 12/5/2025 the court directed that the latter application dated 25th April 2025 be heard and determined first. This ruling relates to that application.
2. The said application dated 25th April 2025 brought by Chamber Summons is for the following orders:-
 1. That the Applicant be granted leave to join this Cause as a party thereto.



2. That the Applicant be joined as a party in all ongoing applications and proceedings in this Cause.
3. THAT the costs of this application be in the Cause.
3. Vide affidavit in support of the Summons, the Applicant avers that he is the executor of the Will left by Serah Wairimu King'onde (deceased) who was his mother as well as a beneficiary and Administratrix of the Estate of the deceased herein. Probate of the Will was granted on 23rd August 2024. The said Serah Wairimu King'onde (deceased) is said to have died on 21st February 2024.
4. The Applicant further avers that he has the duty of collecting and administering the assets of the deceased Serah Wairimu King'onde including her share of the Estate herein. In that capacity, he wants to be allowed to take part in these proceedings to protect the interests of the Estate of the deceased Serah Wairimu King'onde.
5. The 1st Administratrix (Lucy Njoki Waithaka) opposes the Application through her affidavit in reply purportedly sworn on 5th June 2025. She contends that the Applicant cannot take the place of the late Serah Wairimu King'onde as an Administrator herein without consent in that regard by other beneficiaries. According to the Administratrix, the remaining two Administrators of the Estate may carry on with the process of distribution of the Estate. The Application is therefore dismissed as premature and vague since the share of the deceased Serah Wairimu King'onde herein is not in dispute.
6. Another beneficiary of the Estate of the deceased herein (Margaret Wangui Adego) also opposes the application. She filed Grounds of Opposition through her advocates as hereunder:-
 1. That the application is bad in law for ambiguity for the reason that it is not clear if the Applicant seeks to be enjoined in his capacity as a beneficiary of a co-administrator of this estate.
 2. That the objection is also based on other grounds. That would be argued by leave of the court.
7. The 2nd Administrator of this Estate (Douglas Gakuo Waithaka) chose not to oppose the application.
8. It would appear that only the Applicant filed submissions on the application. Citing the case of King'ori vs Chege & 3 Others (2002) 2 KLR inter alia he states the following guiding principles among others in cases of joinder:-
 - a. The Applicant must be a necessary party.
 - b. The Applicant must be a proper party.
 - c. The ultimate order or decree cannot be enforced without his presence in the matter.
 - d. His presence is necessary to enable the court effectively and completely adjudicate upon and settle all questions involved in the suit.
9. The Applicant submits that his participation in these proceedings is necessary to enable him account to the court handling succession to his mother's Estate of which he is the Administrator/Executor.
10. Contrary to the sentiments of the 1st Administratrix herein, I don't understand the Applicant as seeking to be added as an Administrator of this Estate. He only wants to join these proceedings to take care of the interests of the deceased (Serah Wairimu King'onde) who left a Will and appointed him as Executor thereof. As deduced from the Applicant's submissions, the Estate of the late Serah Wairimu King'onde is the subject of Succession file number E310 of 2024 in the High Court at Nairobi



11. I therefore find no good reason to decline the application which is hereby allowed. Accordingly, the Applicant is enjoined in this matter as an Interested Party. This being a family matter, no order is made as to costs.

12. Ruling accordingly.

RULING DELIVERED THIS 16TH DAY OF JULY, 2025 IN THE PRESENCE OF:

J. M. NANG'EA, JUDGE.

Mr. Maitha, Applicant

Ms Achieng Advocate for Mr. Mwamba Advocate for Douglas Gakuo (2nd Administrator)

Mr. Orau Advocate for Mr. Mburu Advocate

Ms Njoroge Advocate for the 1st Administratrix

C/A (Jeniffer)

