



**In re the Estate of the Late Ellah Mwihaki Gichuru alias Ellah Mwihaki Gatheru (Deceased)
(Succession Cause 474 of 2016) [2025] KEHC 11093 (KLR) (28 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11093 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE 474 OF 2016
PN GICHOHI, J
JULY 28, 2025**

**IN THE MATTER OF
RUTH WAMBUI KIARIE APPLICANT**

RULING

1. Vide a Summons dated 16th September 2024, one Ruth Wambui Kiarie (Applicant) moved this Court seeking orders :-
 - a. That this honourable Court be pleased to amend the Certificate of Confirmed Grant issued on 14th July 2018 so as to substitute Ruth Wambui Kiarie as a beneficiary in place of Newton Muriithi Gichuru (deceased).
 - b. That Ruth Wambui Kiarie shall hold the same in trust for the Estate of Newton Muriithi Gichuru (deceased).
 - c. That the cost of the suit be in the cause.
2. She claimed to be the widow of Newton Muriithi Gichuru (deceased) and that they had three children and in support, she attached the Marriage Certificate, the three Birth Certificates and the Chiefs letter. She also attached a Grant of Letters Ad Litem issued to her on 21st July 2024 for purposes of filing this Application.
3. She stated that as per the Grant Confirmed on 14th July 2018 in respect of the Estate of Eliah Mwihaki Gichuru alias Ellah Mwihaki Gatheru (deceased), Newton Muriithi Gichuru (deceased) was to have the following Nakuru properties:-Nakuru Municipality Block 25/1004 (Whole share).Nakuru Municipality Block 1/1455 (1/4 share).Nakuru Municipality Block 3/681 (1/4 share).Kampi Moto Menenagi / Block 1/595 (1/4 share).Proceeds in Stanbic Account No. 01000004177787 (1/4 share).Proceeds in Barclays Account No. 0271033214 (1/4 share).Proceed in Housing Finance Bank Account No. 200-0003098 (1/4 share).CDSCB09/B-0000001151380L1-0 (1/4 share).



4. She stated that the rectification of the Certificate of Confirmed Grant as sought is necessary in order to effect transfer of the Estate of the deceased to all beneficiaries.
5. The background of that application is that Late Ellah Mwihaki Gichuru alias Ellah Mwihaki Gatheru died on 3rd February 2016. A Grant of Letters of Administration was issued to Erastus Gatheru Gichuru on 29th December 2019 by High Court Nakuru.
6. Vide a Chamber Summons dated 18th September 2017, Erastus Gatheru Gichuru moved the Court seeking Confirmation of the Grant issued to him on 3rd February 2016 and in the Chamber Summons, it was stated that the deceased was survived by the following the following:-
 - a. Newton Muriithi Gichuru- Son - Identity Card No. 10773747.
 - b. Erastus Gatheru Gichuru - Son- Identity Card No. 11187093.
 - c. Annrose Wairimu Gicuru -Daughter -Identity Card No. 11588397.
 - d. Mary Njeri Gicuru -Daughter -Identity Card No. 20849896.
7. The Grant revealed the agreed mode of distribution and it was confirmed by the same Court on 14th July 2018.

Analysis and Determination

8. This Court has considered the application herein. The issue for determination is whether a window of a deceased beneficiary in another Estate can be substituted with her late husband by virtue of her being a holder of a Grant of letters of Administration Ad Litem.
9. To start with, the Court is said to have been moved under Section 74 of the *Law of Succession Act* , Rule 73 and section 71 (3) of *Probate and Administration Rules*.
10. For emphasis , Section 74 of the *Law of Succession Act* provides that:-

Errors in names and descriptions, or in setting out the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the court, and the grant of representation, whether before or after confirmation, may be altered and amended accordingly.”
11. In this case, there are no errors at all in the Certificate of Confirmation of Grant dated 14th July 2018. There is no evidence that it was ever revoked and further, there is no evidence availed before this Court to show that the Estate has ever been distributed.
12. Amazingly, the Applicant claims that allowing her application will enable full distribution of the Estate of Ellah Mwihaki Gichuru alias Ellah Mwihaki Gatheru (deceased).
13. As discerned from this Court’s record, the Applicant herein is not an Administrator of the Estate of Ellah Mwihaki Gichuru alias Ellah Mwihaki Gatheru (deceased).
14. Ms Wanjiru for the Applicant actually intimated to this Court that the Administrator of the said Estate was duly served but no response was filed. She Sought to orally amend an alleged error in prayer (b) of the application above to read that:-

“Ruth Wambui Kiarie shall hold the same in trust for herself and of the rest of the Estate of Newton Muriithi Gichuru (deceased).”



15. The Court has looked at the Limited Grant of Letters of Administration Ad Litem issued to her 21st May 2024 in Succession Caused No. E096 of 2024 In the matter of the Estate of Newton Muriithi Gichuru (Deceased).

16. It further reads:-

“Be it known that letters of Administration Ad Litem of all estate of the above named Newton Muriithi Gichuru (Deceased) who died domiciled in Georgia USA on 23rd October 2021 which devolves to and vests in his personal Representatives but limited to the purpose of filing or defending suit and until further representation is granted by this court to Ruth Wambui Kiarie she having undertaken faithfully to administer such estate as be granted and render true and just account thereof whenever required by law to do so.

Grant of Letters of Administration Ad Litem issued Limited to the Purpose only of pursuing Application for Substitution in Nakuru High Court Succession matter No. 474 of 2016 on behalf of the Deceased. The Limited Grant cannot be used to distribute an Estate of the Deceased.” [Emphasis added].

17. It is apparent that the said Grant Ad Litem as framed serves two purposes. While it would be in order that it is limited for purposes of filing or defending a suit, this Court is not persuaded that the Grant can be used to encroach on distribution of Estate of Ellah Mwihaki Gichuru alias Ellah Mwihaki Gatheru (deceased).

18. The Grant cannot be used to administer the Estate of Newton Muriithi Gichuru (deceased) either.

19. The Applicant cannot use it “to hold in trust for the estate Newton Muriithi Gichuru (deceased).”

20. She ought to petition the Court for Grant of Letters of Administration intestate in regard to her late husband Newton Muriithi Gichuru (deceased) so as to claim his share in the Estate of Ellah Mwihaki Gichuru alias Ellah Mwihaki Gatheru (deceased).

21. Rule 73 of Probate and Administration Rules provides that :-

“Nothing in these Rules shall limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.”

22. In light of the above, the orders sought herein are untenable and therefore, the application dated 16th September, 2024 is dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 28TH DAY OF JULY, 2025.

PATRICIA GICHOHI

JUDGE

In the presence of :-

N/A by Ms. Wanjiru for the Applicant

Ruto, Court Assistant

