



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Samuel Mwangi Kabugi alias Mwangi (Deceased) (Succession Cause 607 of 2013) [2025] KEHC 10276 (KLR) (Family) (18 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10276 (KLR)

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**  
**FAMILY**  
**SUCCESSION CAUSE 607 OF 2013**  
**PM NYAUNDI, J**  
**JULY 18, 2025**

**RULING**

1. This Cause was initiated in the Chief Magistrate’s Court at Thika vide Succession Cause No. 357 of 2008, and Grant of Letters of Administration issued to the widow of the deceased, Phylis Wanjiku Mwangi on 18<sup>th</sup> May 2009.
2. The record shows that she presented summons for confirmation dated 31<sup>st</sup> May 2012 and she died on 9<sup>th</sup> October 2012 before the same was heard. Thereafter vide summons dated 7<sup>th</sup> November 2012, William Kimemia presented a Summons for Rectification in which he sought inter alia that he and Nancy Waithera be appointed ‘interim administrators’ immediately, to collect and preserve the estate pending the hearing and determination of the application. On 7<sup>th</sup> November 2012 the Court granted the said order alongside orders relating to how the beneficiaries of the estate would manage the Estate to avoid wastage.
3. What was left pending was prayer 6 of that summons that sought that William Kimemia Mwangi and Nancy Waithera Njoroge be appointed the Administrators to the Deceased’s Estate in place of their deceased mother. The matter was slated for hearing on 21<sup>st</sup> November 2012 could not proceed as the Court was not sitting. Before the application could be finalised, the file was transferred to the High Court vide order in Misc. Application No. 143 of 2012.
4. On 4<sup>th</sup> November 2018, the Court proceeded to revoke the grant pursuant to Section 73 and 76(d) of the *Law of Succession Act*. This order had the effect of revoking the grant earlier issued to Phylis Wanjiku Mwangi on 18<sup>th</sup> May 2009 and the ‘appointment’ of William Kimemia Mwangi and Nancy Waithera Njoroge as ‘interim administrators’. The position therefore is that at the moment there is no administrator to the estate as the Grant Ad litem that issued to Nancy Waithira Njoroge on 1<sup>st</sup> August 2024 in PMCC Succession Misc Cause No. E056 of 2024 at Kandara was also revoked on 5<sup>th</sup> December 2024.



5. To address the vacuum in administration of the estate the applicants have filed two applications one is dated 9<sup>th</sup> July 2024 and the other 29<sup>th</sup> April 2025, in the former the Applicants (Nancy Waithira Njoroge and Beth Wamboi Kamindo) applied to reinstate the Cause and that Nancy Waithira Njoroge be appointed as the ‘interim administrator’ and in the latter she be appointed as Administrator. The Application is opposed by William Kimemia Mwangi and Daniel Kiarri Mwangi. William Kimemia in affidavit sworn on 10<sup>th</sup> June 2025 avers that he was appointed administrator on 7<sup>th</sup> November 2012 and if the applicant is appointed as administrator she is likely to abuse the position to the detriment of the other beneficiaries. As stated the orders of 7<sup>th</sup> November 2012, were revoked by the order of 4<sup>th</sup> November 2018.
6. The parties were referred to mediation on 26<sup>th</sup> November 2024, on 24<sup>th</sup> April 2025 they informed the Court that the mediation had failed. On 16<sup>th</sup> June 2025 when the matter came before Court, the Court gave time to the parties to agree on a mediator, they returned on 9<sup>th</sup> July 2025 and reported that they had failed to agree.
7. Section 66 of the *Law of Succession Act* gives the Court, final discretion as to the person or persons to whom a grant of letters of administration shall be made-
 

66. Preference to be given to certain persons to administer where deceased died intestate

When a deceased has died intestate, the court shall, save as otherwise expressly provided, have a final discretion as to the person or persons to whom a grant of letters of administration shall, in the best interests of all concerned, be made, but shall, without prejudice to that discretion, accept as a general guide the following order of preference—

  - (a) surviving spouse or spouses, with or without association of other beneficiaries;
  - (b) other beneficiaries entitled on intestacy, with priority according to their respective beneficial interests as provided by Part V
  - (c) the Public Trustee; and
  - (d) creditors:

Provided that, where there is partial intestacy, letters of administration in respect of the intestate estate shall be granted to any executor or executors who prove the will.
8. Given that the parties have not been able to agree on the administrators notwithstanding the opportunities given to them to do so, the Court will now exercise its discretion. In arriving at my decision, I am guided by section 82 and 83 of the *law of Succession Act* which sets out the powers and duties of a personal representative and Part V of the *Act* that sets out the principles governing the estate of a deceased person who dies intestate.
9. I am aware that all the children of the deceased rank equal in priority when it comes to administration of the estate. There are no minors in this estate. There is acrimony between the siblings.
10. It is not denied that there are matters pending in Court in which the respondents are defendants. They contend that the suits are vexatious and without merit. That is not for this court to determine. In those suits it is alleged that they have intermeddled with the estate. That in my view would disqualify them from acting as administrator until the issue is resolved.
11. As stated all the beneficiaries of the estate are adults and therefore the estate can be administered by a sole administrator. To enable the finalisation of the administration of the Estate, I will appoint Nancy Waithira Njoroge as administrator. She will proceed and file summons for confirmation within 45



days from the date hereof and serve the application and proposed mode of distribution on all the beneficiaries of the estate.

12. Any beneficiary who does not agree with the mode of distribution will file and serve affidavit of protest within 14 days of service. The Administrator is granted leave to file further affidavit in response to the affidavit (s) of protest so filed.
13. The matter will be mentioned on 8<sup>th</sup> October 2025 to confirm compliance and take directions on hearing of the summons for confirmation or protest (s) if filed.
14. This being a family matter there shall be no order as to costs.
15. Leave to appeal is granted. Party exercising their right of appeal to file appeal within 30 days.

It is so ordered.

**SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 18<sup>th</sup> DAY OF JULY, 2025.**

**P M NYAUNDI**

**HIGH COURT JUDGE**

**In the presence of:**

Kara for Applicants

Fardosa Court Assistant

