



**In re Estate of Elizabeth Wangari Muturi (Deceased) (Succession Cause 1349 of 2016) [2025] KEHC 10582 (KLR) (Family) (17 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10582 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
FAMILY  
SUCCESSION CAUSE 1349 OF 2016  
HK CHEMITEI, J  
JULY 17, 2025**

**IN THE MATTER OF THE ESTATE OF ELIZABETH WANGARI MUTURI (DECEASED)**

**BETWEEN**

**CHARLES NJUGUNA NJERI ..... 1<sup>ST</sup> PROTESTOR**

**IVY WANGARE NJERI ..... 2<sup>ND</sup> PROTESTOR**

**AND**

**CHARLES IRUNGU ..... 1<sup>ST</sup> RESPONDENT**

**JOHN WAWERU NJUGUNA ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. This ruling relates to the affidavit of protest dated 23<sup>rd</sup> January, 2023 filed by the Protestors, Charles Njuguna Ileri and Ivy Wangare Njeri.
2. The protest is based on the grounds that they are grandchildren of the deceased, being the children of the late Margaret Njeri Njuguna. The deceased was their grandmother, and the Administrators of the estate are their uncles.
3. They deponed that despite this, they have been excluded from the proceedings and omitted from the list of beneficiaries, even though the Administrators are fully aware that their mother is deceased and that they are her rightful heirs.
4. No proposed distribution of the estate has been submitted to the court, while the Administrators continue to benefit financially from the estate to the exclusion of the Applicants.
5. In addition, they deponed that not all of the deceased's properties have been disclosed, with LR No Dagoretti/Kangemi/T450 being omitted entirely. Furthermore, LR No Dagoretti/Kangemi/



- 625 has been incorrectly listed, as it does not belong to the deceased.
6. The Administrators also fraudulently submitted a forged death certificate for their late mother instead of the genuine one.
  7. There has been a failure to disclose all rightful beneficiaries of the estate, along with instances of unlawful interference with the estate, including the falsification of receipts for property repairs.
  8. The deceased was the sole registered owner of LR No Dagoretti/Kangemi/T450, while LR No Dagoretti/Kangemi/625, listed as an estate asset, is not part of the deceased's estate. In fact, George Chege, one of the beneficiaries, is the registered owner of LR No Dagoretti/Kinoo/625.
  9. The Administrators' conduct is harmful to the estate and appears designed to defraud other beneficiaries and enrich themselves unjustly. Furthermore, the Administrators plan to distribute the proceeds of LR No Dagoretti/Kangemi/625 among all beneficiaries, even though they know that this parcel belongs to George Chege and is not part of the estate.
  10. The protest is opposed vide replying affidavit sworn by John Waweru Njuguna on 29<sup>th</sup> May, 2023.
  11. He avers inter alia that the deponent is the second Respondent and a co-administrator of the estate of the deceased. He has the authority and consent of his co-administrator, Charles Irungu, to swear this affidavit. It is the deponent's position that the affidavit of protest filed by the Protestors is legally defective, misleading, without merit and intended solely to delay the proceedings. As such, it should be struck out. The Protestors lack the legal capacity (*locus standi*) to file the current protest.
  12. He went on to depone that they are not direct beneficiaries of the deceased's estate. If they intend to act on behalf of their late mother, Margaret Njeri Njuguna - who is a named beneficiary - they must first obtain either a limited grant of representation (*ad litem*) or a full grant of letters of administration to her estate. They have done neither.
  13. In support of this position, the deponent refers to a ruling delivered on 26<sup>th</sup> October, 2022 in Succession Cause No E847 of 2020, where a similar protest by other grandchildren of the deceased was dismissed on the basis that they lacked *locus standi*. The court in that case held that grandchildren cannot act on behalf of their deceased parents without proper legal authority. The current Protestors, who are in a similar position, equally lack standing to bring the protest.
  14. Their claim that they have been excluded as beneficiaries is unfounded, as their mother is already listed as a beneficiary. It is a well-established principle of succession law that grandchildren inherit through their parents. Therefore, their late mother's share of the estate will devolve to her estate and can then be inherited by her children.
  15. The Administrators have duly applied for confirmation of the grant and have annexed a proposed mode of distribution which includes all listed beneficiaries. Their role is limited to collecting and preserving the estate assets for purposes of distribution. The allegations that they are misappropriating proceeds from the estate are speculative, unsubstantiated and lack evidentiary support.
  16. Regarding LR No Dagoretti/Kangemi/T.450 (Plot 450), they swore that it was not part of the estate as claimed. The property was transferred by the deceased in 2004, during her lifetime, to John Waweru Njuguna, Jane Njuguna and Lucy Wanjiru Gitau - her children - as a lifetime gift (*gift inter vivos*). Since the deceased passed away in 2011, this property does not form part of the estate and is not available for distribution.



17. Contrary to the Protestors' assertions, LR No Dagoretti/Kangemi/625 (Plot 625) was jointly owned by the deceased and George Chege Njuguna. Upon the deceased's death, her 50% share devolves to the estate. George Chege has acknowledged this and signed the proposed schedule of distribution accordingly. He does not contest the distribution, being fully aware of the legal implications of joint ownership. Under the doctrine of joint tenancy, he retains his half, and the other half is available for distribution to the beneficiaries, including his brother William Kariuki.
18. The Protestors' names are not included in the list of beneficiaries because their mother's name is already included. As such, their inheritance will come through her share upon distribution of her estate.
19. If they believe that the Administrators are acting fraudulently or contrary to the interests of the estate, there are proper legal channels to raise such concerns. However, they have failed to show that the Administrators have excluded them from inheritance or are engaging in any conduct that would justify the issuance of conservatory orders or blocking the confirmation of the grant.
20. They concluded that the grant of letters of administration intestate was issued on 2<sup>nd</sup> December, 2021. Over a year has passed since then. The application for confirmation was filed on 15<sup>th</sup> June, 2022 and has remained pending to date. Many of the listed beneficiaries are elderly and wish to see the estate distributed during their lifetime. Given that this succession matter dates back to 2016 and has remained unresolved over the years, it is in the interest of justice that the confirmation of the grant proceeds without further delay.
21. The Protestors have filed written submissions dated 12<sup>th</sup> July, 2024 placing reliance on the following:-
  - a. *In re Estate of Lante Osman Sharriif Omar Noor A. K. A (Osman Omar) (Deceased)* [2015] eKLR where it was held that the issuance of grant and subsequent confirmation of the same to the Respondent was irregular having been obtained through fraudulent misrepresentation of material facts and the same should be revoked.
  - b. In Succession Cause No 220 of 2000: In the Estate of Samuel Kabui Mukora (Deceased) where it was held as follows: "The law is clear in that before letters of administration are granted all persons entitled in the same degree or in priority with the Applicant should be notified. I am satisfied that the Respondent misled the court in his application when he stated that the deceased was not survived by any other child or widow. Accordingly, there is sufficient justification for this court to revoke the grant that was issued on 18<sup>th</sup> July, 2000 to Edward Mukora Kabui and confirmed on 20<sup>th</sup> March, 2002, and all consequential transactions pursuant to the said grant are consequently revoked."
  - c. *Stephen Marangu M'itirai v Silveria Nceke & 4 others* [2015] eKLR where it was observed as follows: "In my view, the law requires that all the deceased children whether alive or dead, whether male or female, married or unmarried be listed in an application for grant of letters of administration failure whereof, any omitted dependent has a right to challenge the grant on such a ground. The petitioner has admitted he did not consult any of the Objectors. Rule 26 (1) of the *Probate and Administration Rules* required him to have given them notice before a grant of letters of administration was made to him. He did not issue any notice to any of them but acted secretly. In Form P & A 5 he lied by failing to disclose the objectors/Applicants amongst the people who survived the deceased. Similarly, in P & A 80 he lied by stating every person having an equal or prior right to a grant of representation had consented or had renounced such right or had been issued with a citation to renounce such right and applying for a grant of representation and has not done so. Further when the matter came for confirmation of grant the petitioner lied that the beneficiaries were only him, and one Robert Michael M'itirai."



- d. *Beatrice Ciamutua Rugamba v Fredrick Nkari Mutegi & others* where the court held that a dependant under Section 29 (b) & (c) must go beyond the blood relationship to prove dependency.
22. The Respondents have not filed written submissions.

### **Analysis And Determination**

23. I have read the protest before this court, the response thereto and the submissions filed by the parties and address them as follows:-
24. The issues herein are clear and straight forward. The Objectors right in the estate is by virtue of their late mother Margaret Njeri Njuguna who was the deceased daughter. It is trite law as submitted by the Respondents that they have to inherit what is due to her.
25. However, and more importantly the Applicants have not demonstrated their rights over their deceased mother's estate. They did not provide evidence of any grant whether limited or full to permit them agitate her rights in the estate.
26. As Muchelule J (as he was) stated on 26<sup>th</sup> October 2022 ruling which is on record, and which concerned the other deceased grandchildren, they ought first of all to have obtain the locus standi before filing this application.
27. In the absence of the said grant the application has no merit and stands dismissed in any event. The provisions of Section 82(a) of the Succession Act is clear on this.
28. The issues raised concerning the two parcels namely Dagoretti/Kangemi/T450 and Dagoretti/Kangemi/625 will be argued well at the level of determination of the confirmation of grant. Nonetheless the Respondents have given some explanations which shall be ventilated at the time of determining the grant.
29. For now, I think it is only fair to state that the application is unmerited for want of locus standi on the part of the Applicants. The matter ought to proceed for confirmation of the grant.
30. In any case the interest of their deceased mother has been captured at the schedule of distribution and so nothing is lost on the part of the Applicants.
31. The application is otherwise dismissed with no order as to costs.
32. The parties should proceed to apply for the confirmation of grant within 30 days from the date herein.

**DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 17<sup>TH</sup> DAY OF JULY 2025.**

**H K CHEMITEI**  
**JUDGE**

