



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Nganga v Njenga; Kinyuru (Applicant) (Civil Case 260 of 1988)
[2025] KEHC 9740 (KLR) (Civ) (3 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9740 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL CASE 260 OF 1988

JN MULWA, J

JULY 3, 2025

BETWEEN

STEPHEN K NGANGA PLAINTIFF

AND

GEOFFREY KINYURU NJENGA DEFENDANT

AND

JANE NJOKI KINYURU APPLICANT

RULING

1. Judgment in this suit was delivered on 24/02/1999 by the Hon. Justice E. M. Githinji (as he then was) and a decree thereof issued on 26/08/1999 wherein the Land parcel in dispute L. R. No. 182/5 ownership was determined as stated in the decree aforesaid.
2. The Defendant Geoffrey K. Njenga eventually died sometimes in June 2009 and Letters of Administration of his estate granted to Nancy Ngendo Kinyuru Njenga, Peter Kivuri Kinyuru and Jane Njoki Kinyuru vide High Court at Nairobi Succession cause No. 106/2010 on 31/05/2010 and Rectified on 4/06/2012.
3. By the Chamber Summons Application before the court dated 13/09/2019, the applicant Jane Njoki Kinyuru seeks an order to substitute the names of Geoffrey Kinyuru Njenga (deceased) with her name on grounds that the cause of action survives the deceased and that she has taken out Letters of Administration in respect of the deceased's estate other grounds stated in her Supporting Affidavit sworn on an even dated in which he alludes to the Rectified grant of letters of administration issued by the court on 31/05/2010 and rectified on 4/06/2012.



4. A perusal of the said rectified grant shows that the applicant Jane Njoki Kinyuru is one of the three administrators of the Estate of the deceased.
5. The application is opposed by the Estate of Samuel Ruhui Kibugi (deceased) by way of Grounds of Opposition dated 24/09/2019, thus:-
 1. *Vide* H. C. succession *Cause No. 106 of 2010* in the matter of the Estate of Geoffrey Kinyuru Njenga (deceased) this Honourable court issued a grant of Letters of Administration Intestate of Nancy Ng'endo Kinyuru Njenga, Peter Kiruri Kinyuru and Jane Njoki Kinyuru and in the circumstances, Jane Njoki Kinyuru has no capacity in isolation to act on behalf of the Defendant without the consent of her co-administrators.
 2. A perfunctory perusal of the Decree issued by this court on 26th August 1999 and the aforesaid H. C. Succession *Cause No. 106 of 2010* in the matter of the Estate of Geoffrey Kinyuru Njenga (deceased) is demonstrative that the subject property does not form part of the Estate of the defendant as there is a clear and unambiguous order of this court directing the defendant to transfer 9 acres to Samuel Rachu or if dead to his legal representative.
 3. The averments of Jane Njoki Kinyuru in her supporting affidavit sworn on 13th December, 2019 are exceptionally inconsiderate, unwarranted, incoherent and misplaced and the remedy cannot be sought in the manner she purports to.
 4. The motion dated 13th December, 2019 is brought under non-existent provisions of the law, viz "Order XXIII Rule 2 and 12 of the [Civil Procedure Rules](#)".
 5. In totality, there is no pending cause of action as contemplated under Order 24 Rule 4 (1) of the [Civil Procedure Rules, 2010](#) to warrant substitution of the defendant with his administrators as the issues in this suit have been heard and determined.
6. Further, the Respondents have filed a Replying Affidavit sworn by Rachael Wahito Knaple Ruhui one of the executors and Trustees of the will of Samuel Ruhui Kibugi (deceased) annexing several documents among them grant of probate of the deceaseds will, certificate of confirmation of grant of probate and the will.
7. The Respondents further refer and rely on the decree of the court herein issued and rectified on 4/06/2012 and additionally stating that the legal representatives of the estate of the defendant (deceased) Geoffrey Kinyuru Njenga have failed to honour the decree of the court that necessitated taking out execution proceedings on 10/07/2019 from which action the present application dated 13/09/2019 was filed.
8. It is a further averment by the Respondents that there is no surviving cause of action in the suit as all issues in dispute in the suit were determined through the judgment which was neither reviewed, varied or appealed against, and further that from the court proceedings the subject property (9acres) which the court ordered to be transferred to Samuel Ruhui Kibugi (Deceased) does not form part of the defendants estate herein and thereby urges the court to dismiss the application



Analysis and determination.

9. The court has considered the affidavit evidence offered by both parties and oral arguments before the court by their counsel.
10. The Applicant Jane Njoki Kinyuru seeks to be substituted as a legal representative of her father's estate that is the only prayer in the application.
11. I have taken the liberty to read the judgment delivered in the succession cause pitting her father, the late Geoffrey Kinyuru Njenga, and the plaintiff Stephen k. Njenga. Clearly in Nairobi High Court Succession Cause No. 106/2010 on the 31/05/2010 the applicant together with other two were appointed as the personal representatives of the estate of her late father Geoffrey Kinyuru Njenga and which grant was rectified on 4/06/2012 It is clear that either the applicant does not understand what it means to be an administrator or a co-administrator or even duties of an administrator of a deceased's estate.
12. The applicant has not told the court that she is no longer one of the three legal administrators of the estate. She cannot purport to act singly without her co-administrators consent.
13. It is the courts view that the prayer sought by the applicant is not brought in good faith but rather was so done to evade execution proceedings in default of the administrator's compliance with the courts decree issued on 26/08/1999 which decree has not been varied or appealed against as far as the court proceedings show.
14. At paragraph 6 of the decree it is clear that the Defendant (Geoffrey Kinyuru Njenga, now deceased, and the Applicants father were ordered to transfer to Samuel Ruhui or if dead to his legal representative of his estate 9(nine) acres of the then disputed land parcel.
15. The court order is clear, unambiguous and needs nothing more save a court order varying the same. The Applicant being one of the administrators of the estate of the defendant cannot apply to be substituted as she already is. They have failed to comply with the terms of the decree necessitating the representative of the estate of Samuel Ruhui to take out execution proceedings.
16. The Applicant Jane Njoki Kinyuru has not controverted the Respondents averments in any meaningful manner as deponed to by Rachael Wahito Ruhui in her affidavit in opposition to the application before the court and coupled with the grounds of opposition dated 24/09/2019.
17. The court agrees with the said administrator that the Applicants role is principally to inform the court whether or not they (administrators) have complied with the court's decree by transferring the property as ordered by the court to the estate of the late Samuel Ruhui or not.
18. By and large, the court finds the application dated 13/09/2019 to be devoid of merit, is mischievous, unwarranted, in coherent misplaced and misconceived; it is bad in law and gross abuse of court process.
19. It is dismissed. Had it not been a family dispute, costs of the application would have been ordered against the applicant Jane Njoki Kinyuru.
20. Orders accordingly.

DELIVERED DATED AND SIGNED AT NAIROBI THIS 3RD DAY OF JULY, 2025

.....

JANET MULWA.



JUDGE

