



**In re Estate of Benson Laitete Kamano (Deceased) (Succession Cause
823 of 2016) [2025] KEHC 13182 (KLR) (Family) (25 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13182 (KLR)

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

FAMILY

SUCCESSION CAUSE 823 OF 2016

HK CHEMITEI, J

SEPTEMBER 25, 2025

N THE MATTER THE ESTATE OF BENSON LAITETE KAMANO (DECEASED)

BETWEEN

JUDITH WAMBUI MUGAMBI 1ST APPLICANT

CHARLES LANTEI MUGAMBI 2ND APPLICANT

MICHAEL LENGARE MUGAMBI 3RD APPLICANT

BILHAH SHAMANDA MUGAMBI 4TH APPLICANT

AND

JOEL NDAGUGA LAITETE 1ST RESPONDENT

SAMSON KAMANI LAITETE 2ND RESPONDENT

RULING

1. This ruling relates to the summons dated 9th February, 2024 filed by the Applicants Judith Wambui Mugambi, Charles Lantei Mugambi, Michael Lengare Mugambi and Bilhah Shamanda Mugambi, seeking for ORDERS THAT:
 1. Spent.
 2. The grant of letters of administration intestate issued to Beth Mereina Kamano, Joel Ndaguga Laitete and Samson Kamano Laitete on the 4th day of August, 2016 be revoked by this honourable court.
 3. The costs of this application be provided for.



2. The application is based on the grounds thereof and supported by affidavit sworn by Judith Wambui Mugambi on 9th February, 2024.
3. She avers inter alia that she is one of the Applicants in this case, the widow of the late Thomas Mugambi Laitete, and the mother of his three children: Charles Lantei Mugambi, Michael Lengare Mugambi and Bilhah Siamanda Mugambi, who are the 2nd, 3rd and 4th Applicants, respectively.
4. She averred that she and Thomas Mugambi Laitete, now deceased, were married on 18th August, 1990 and had the aforementioned children together. Thomas was the third-born son of the late Benson Laitete Kamano, the deceased in this matter. She learned from reliable sources in late 2023, that the succession of the estate of the late Benson Laitete Kamano was ongoing, and that her husband was not included as a beneficiary in the petition for letters of administration intestate. After conducting her own investigation, she confirmed that her husband, as the third-born of nine siblings, was indeed excluded from the beneficiary list in the succession cause filed after the death of Benson Laitete Kamano in 2016.
5. That she was unaware of this succession process as it was conducted secretly without informing Thomas Mugambi Laitete's family. It wasn't until the death of her mother-in-law, Beth Mereina, when preparing for her memorial service, that she inquired about the succession process. The chairperson of the session, Moses Waweru Laitete, evaded her question, saying that they are not going back to succession. After that, she was never invited to subsequent family meetings.
6. She was not involved in the succession process, despite being the administratrix of her husband's estate. Later, she discovered that the succession process had concluded, and that her husband's family had not been considered as beneficiaries of the estate. She learned that her husband's siblings, led by Joel Ndaguga and Samson Kamano, the current administrators, were actively excluding Thomas Mugambi Laitete and his dependents from their father's inheritance.
7. Further investigation revealed that meetings and court proceedings had taken place without her family's involvement, and they were awaiting confirmation of the grant. She is aware that a grant of representation for the estate of Benson Laitete Kamano was issued on 4th August, 2016 to Beth Mereina Kamano, Joel Ndaguga Laitete and Samson Kamano Laitete. However, the grant was obtained fraudulently as the administrators misrepresented to the court that they were the only surviving dependents of the deceased, omitting Thomas Mugambi Laitete, her late husband, from the list.
8. The administrators failed to inform the extended family or obtain their consent before initiating the succession proceedings or being appointed as administrators. From the court records, she sees that the administrators listed only six beneficiaries in their application for letters of administration, excluding Thomas Mugambi Laitete's family.
9. As the daughter-in-law of the deceased, she asserts that her husband, as a son of the deceased, was also entitled to inherit from the estate, and the inheritance should be shared equally among all the deceased's children. The petitioners falsely stated that no other dependents existed, contrary to Section 29 of the [*Law of Succession Act*](#) (Cap 160).
10. Furthermore, the administrators did not list all the deceased's assets in their petition, including several properties such as L.R. Nos. Ngong/Ngong/40516, Ngong/Ngong/40517, Ngong/Ngong/ 40524, Ngong/Ngong/57308, Ngong/Ngong/40521 and Plot No. B271 Ongata Rongai. The administrators also failed to disclose the full list of assets in their petition for confirmation, thereby misleading the court.



11. That the administrators obtained the grant based on false statements and concealed important information, making the proceedings defective. They did not involve Thomas Mugambi Laitete's family in the process, nor did they obtain the necessary consents. Therefore, the grant should be revoked, and a new one issued to ensure all rightful beneficiaries inherit their share of the estate.
12. The application is not opposed.
 1. Bottom of Form
 2. Top of Form
 3. Bottom of Form
13. The Applicants have filed written submissions dated 12th May, 2025, placing reliance on the following:
 - a. W. M. Musyoka's Law of Succession at page 118 where the author stated as follows: "Non – discrimination of daughters' reference to children does not distinguish between sons and daughters, neither is there a distinction between married and unmarried daughters."
 - b. In the Matter of the Estate of M'Ngarithi M'Miriti alias Paul M'ngarithi M'miriti (Deceased) [2017] KLR where the court stated as follows: "Discrimination of daughters in inheritance: From the arguments coming through, it is clear issues to do with discrimination based on gender and sex has emerged. There were bad times in the heavily patriarchal African society; that being born as daughter disinherited you. And so, even the judicial journey to liberate daughters from being so down – trodden by the patriarchal society in Kenya on matters inheritance has been long and painful. As a matter of fact, due to the constitutional architecture of our nation at the time, before 2010, we only saw pin – prick thrusts and rapier – like strokes by courts on these persistent patriarchal biases. But, things changed when RONO vs RONO [2008] 1KLR 803 delivered the downright bludgeon – blow on these discriminatory practices against women in inheritance; it splendidly paid deference to the international instruments against all forms of discrimination against women especially the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and, I am happy to say that from thence, there are many cases – and the number is rising by the day as courts implement *the Constitution* – which state categorically that discrimination in inheritance on the basis of gender or sex or status is prohibited discrimination in law and *the Constitution*. More specifically, I am content to cite the proclamation by the Court of Appeal in the case of STEPHEN GITONGA M'MURITHI vs FAITH NGIRAMUTHI [2015] eKLR that: "Section 38 enshrines the principle of equal distribution of the net intestate estate to the surviving children of the deceased irrespective of gender and whether married and comfortable in their marriage or unmarried..." Therefore, a son will not have priority over a daughter of the deceased simply because he is male; all male and female siblings are equal before the law and are entitled to equal protection of the law. (See Article 27 of *the Constitution*). Accordingly, the 3rd Administrator and her children who are claiming the inheritance of the late Francis K. M'Ngaruthi, the son of the deceased are only entitled to the share of their late father. They are not, in the circumstances of this case entitled to more share than the distinct share of each of the two daughters of the deceased simply because the late Festus M'Ngaruthi was the son. The three children of the deceased are entitled to share the net intestate estate of the deceased equally."

Analysis And Determination

14. I have read the application before this court, the response thereto and filed submissions.



15. Although the application is unopposed, it is the duty of the Court to nevertheless subject it to a merit evaluation in accord with the applicable laws and principles. Indeed, in *Gideon Sitelu Konchellah vs. Julius Lekakeny Ole Sunkuli & 2 others* [2018] eKLR the Supreme Court of Kenya held that: “...as a court of law, we have a duty in principle to look at what the application is about and what it seeks. It is not automatic that for any unopposed application, the Court will as a matter of course grant the sought orders. It behoves the Court to be satisfied that prima facie, with no objection, the application is meritorious and the prayers may be granted. The Court is under a duty to look at the application and without making any inferences on facts point out any points of law, such as any jurisdictional impediment, which might render the application a non-starter. We see no such jurisdictional issue in the application before us. Hence we have proceeded to consider the facts before us as against the jurisprudence for grant of stay orders set by this Court...”
16. In re Estate of Joshua Githiari Kibui (Deceased) [2021] eKLR the court stated as follows:
- “ 18. For avoidance of doubt, Section 76 of the *Law of Succession Act* states as follows:
- a. “76. Revocation or annulment of Grant
 - b. A Grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion—
 - (a) that the proceedings to obtain the Grant were defective in substance;
 - (b) that the Grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
 - (c) that the Grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the Grant notwithstanding that the allegation was made in ignorance or inadvertently;
 - (d) that the person to whom the Grant was made has failed, after due notice and without reasonable cause either—
20. Further, In the Matter of the Estate of L A K – (Deceased) [2014] eKLR the court held that;
- (a) Revocation of grants is governed by Section 76 of the *Law of Succession Act*. The relevant portions of Section 76 are paragraphs (a), (b) and (c) since the issues raised relate to the process of the making of a grant. A grant may be revoked where the proceedings leading up to its making were defective, or were attended by fraud and concealment of important matter, or was obtained by an untrue allegation of a fact essential to the point.
32. The court in the case of *Jamleck Maina Njoroge v Mary Wanjiru Mwangi* (2015) eKLR at paragraph 11 of its ruling in revoking a grant reiterated the grounds upon which a grant can be revoked. It stated as follows:-



- a. “11. The circumstances that can lead to the revocation of grant have been set out in Section 76 Law of Succession. For a grant to be revoked either on the Application of an interested party or on the court’s own motion there must be evidence that the proceedings to obtain the grant were defective in substance, or that the grant was obtained fraudulently by making of false statement, or by concealment of something material to the case, or that the grant was obtained by means of untrue allegations of facts essential in point of law.”
33. In the case of *Matheka and Another vs Matheka* [2005] 2KLR 455 the Court of Appeal laid down the following guiding principles as to revocation of grants.
 - (a) “i. A grant may be revoked either by application by an interested party or by the court on its own motion.
 - (b) ii. Even when revocation is by the court upon its own motion, there must be evidence that the proceedings to obtain the grant were defective in substance, or that the grant was obtained fraudulently by the making of a false statement or by concealment of something material to the case or that the grant was obtained by means of untrue allegation of facts essential in point of law or that the person named in the grant has failed to apply for confirmation or to proceed diligently with the administration of the estate.”
17. In light of the foregoing, I find that the application is merited.
18. However, and while this application was pending the parties entered into a court annexed mediation and a partial consent dated 19th July 2024 was filed herein. The court adopted it on 14th August 2024.
19. The said consent it appears has roped in the interest of the Applicants including the manner in which the estate is to be shared out. Being a partial consent, I suppose that there are areas where the parties are yet to agree.
20. In the premises it may not be efficacious to revoke the grant as prayed in the application. The best way for now is to execute the partial settlement and in the event that there are properties remaining out of the consent then the parties shall be at liberty to move the court.
21. I therefore direct that:-
 - (a) The Applicant together with her children are beneficiaries to the estate herein.
 - (b) The administrators should within 45 days from the date herein execute the partial consent adopted by this court on 14th August 2024 and any other issue remaining be submitted to the court for determination and or further directions.
22. Costs in the cause.

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAIROBI THIS 25TH DAY OF SEPTEMBER 2025.

H K CHEMITEI



JUDGE

