



**In re Estate of Protasio Njeru (Deceased) (Succession Cause
23 of 2023) [2024] KEHC 6231 (KLR) (16 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6231 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 23 OF 2023
TW CHERERE, J
MAY 16, 2024
IN THE MATTER OF THE ESTATE OF PROTASIO NJERU
(DECEASED)
AND
IN THE MATTER OF REVIEW OF ORDERS ISSUED ON
30TH SEPTEMBER, 2023**

IN THE MATTER OF
SIGISMOND K. NJERU 1ST EXECUTOR
HENRY PAUL IRERI NJERU 2ND EXECUTOR
CHRISTINA WARUE NJERU 3RD EXECUTOR

RULING

Brief Facts

1. The grant in this matter was confirmed on 30th November, 2023. Petitioners have filed summons for review of orders dated 30th November, 2023 on the grounds that:
 1. The bulk of the assets are trading assets subject to various existing securities to several lenders
 2. That the assets were vested on a family trust
 3. The grant has become inoperative
2. The application is supported by an affidavit sworn by the Executors/Applicants on 30th April, 2024 who reiterate the grounds on the face of the application.
3. All the beneficiaries appeared before the court and indicated that they had no objection to the application



Analysis and Determination

4. I have considered the application in the light of the supporting affidavit, the annexures thereto and submission dated 30th April, 2024.
5. The law governing issues of review orders is anchored under Section 80 of the [Civil procure Act](#) and Order 45 (1) of the [Civil Procedure Rules](#).
6. Under Order 45(1) of the Rules, a party seeking review must prove that the application is filed without unreasonable delay; discovery of new or important matter or evidence which after the exercise of due diligence, was not within his knowledge, or could not be produced by him at the time when the decree was passed or the order made; or on account of some mistake or error apparent on the face of the record or for any other sufficient reason. This position was emphasized in the case of [In re Estate of Maero Tindi \(Deceased\)](#) [2018] eKLR.
7. In [Wangechi Kimita v Wakibiru Mutabi](#) [1985] eKLR, Nyarangi JA stated as follows:

“I see no reason why any other sufficient reason need be analogous with the other grounds in the order because clearly section 80 of the Civil Procedure Act confers an unfettered right to apply for a review and so the words “for any other sufficient reason” need not be analogous with the other grounds specified in the order”.
8. In the case of [Sardar Mohamed v. Charan Singh Nand Singh](#) [1959] E.A. 793, Farrell, J. applied a broad interpretation to section 80 of the [Civil Procedure Act](#), holding that the section conferred an unfettered right to apply for review, and an unfettered discretion in the court to make such order as it thinks fit.
9. Section 47 of the [Succession Act](#) also gives this court inherent powers under Rule 73 of the [Probate and Administration Rules](#) to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.
10. Section 3D (2) (c) of the [Trustees Perpetual Succession Act](#) provides that a family trust is not a trading entity. It therefore prohibits a family trust from carrying on trading activities.
11. From the foregoing, I am satisfied that the Certificate of Confirmation of Grant dated 30th November, 2023 is incapable of being executed and that is sufficient cause for review of the same.
12. It is therefore hereby ordered
 1. The Certificate of Confirmation of Grant dated 30th November, 2023 is reviewed and rectified and the estate distributed as follows:
 - a. Immovable Assets
 - A. Teavista Ridge Investments
 1. Ntima/Igoki/1880
 2. Ntima/Igoki/4331
 3. Nyambene/Kirindine A/4598
 4. Nyambene/Kirindine A/2799
 5. Nyambene/Kirindine A/1146



6. Nyambene/Kirindine A/169
 7. Nyambene/Kirindine A/141
 8. Nyambene/Kirindine A/118
 9. Nyambene/Kirindine A/74
- B. Ankamia Ridge Investments
1. Tigania East/Ankamia/2053
 2. Tigania East/Ankamia/5464
 3. Tigania East/Ankamia/5474
 4. Tigania East/Ankamia/5475
 5. Tigania East/Ankamia/5476
- C. Kiegoi Ridge Investments
1. Kiegoi/Kinyanka/199
 2. Kiegoi/Kinyanka /544
 3. Kiegoi/Kinyanka/649
 4. Kiegoi/Kinyanka/690
 5. Kiegoi/Kinyanka/701
 6. Kiegoi/Kinyanka/1080
 7. Kiegoi/Kinyanka/1189
 8. Kiegoi/Kinyanka/1585
 9. Kiegoi/Kinyanka/1586
 10. Nyaki/Giaki/60
- D. Makennia Ridge Investments
1. Ntima/Igoki/779
 2. Ntima/Igoki/2050
 3. Ntima/Igoki/2135
 4. Ntima/Igoki/2136
- E. Cobalt Sky Holdings Ltd
1. Ntima/Igoki/4007
 2. Ntima/Igoki/2134
 3. Nyambene/Kirindine A/88
 4. Nyambene/Kirindine A/2073



5. Nyambene/Kirindine A/2597
6. Nyambene/Kirindine A/3644
7. Nyambene/Kirindine A/3803
8. Nyaki/Giaki/1148
9. Nyaki/Giaki/1635
10. Nyaki/Giaki/1864
11. Nyaki/Giaki/2753
10. Nyaki/Thuura/2408
11. Tigania East/Ankamia/8296
12. Tigania East/Ankamia/5975
13. Tigania East/Ankamia/5091
14. Tigania East/Ankamia/4794
15. Tigania East/Ankamia/9532
16. Tigania East/Ankamia/5477
17. Amungenti A/1809
18. Amungenti A/12979
19. Amungenti A/12980
20. Amungenti A/13052
21. Amungenti -50 Acres pending demarcation numbers
22. Kiirua/Ruiri/1413

b. Movable Property

i. Bank Account

Sums of money held in my account at Equity Bank Account Number 0195070736 - to be deposited to Sigismund. K. Njeru Account ID.16107308

ii. Shares

1. Njeru Industries 7500 Shares to Christina Warue Njeru
2. Master Macadamia Ltd 30 Shares to Christina Warue Njeru
3. Mt. Kenya Tea Factory Company 600 Shares to Teaberry Investment Group Limited
4. Angies Tea Ltd 250 Shares to Sigpro Holding Company Limited

iii. House Hold Items



- a. Electronic Equipment (b) Clothing (c) Furniture to be distributed equally among the beneficiaries
2. Mention on 03rd October, 2024 to confirm compliance transmission
3. Costs shall be in the cause

DELIVERED AT MERU 16TH DAY OF MAY 2024

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistants – Munene/Kinoti

For Applicants - Ms. Dianah & Mr. Anampiu for Ayub K. Anampiu & Company Advocates

