



REPUBLIC OF KENYA



**In Estate of Alfred Kamure Mbindu (Deceased) (Succession Cause
158 of 2014) [2024] KEHC 5557 (KLR) (8 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5557 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT EMBU
SUCCESSION CAUSE 158 OF 2014
LM NJUGUNA, J
MAY 8, 2024**

BETWEEN

VERONICA KERE MBINDU 1ST ADMINISTRATOR

JANICA WANJIRU KAMURE 2ND ADMINISTRATOR

AND

CECILIA MUTHONI KAMURE ADMINISTRATOR

RULING

1. The applicant has filed summons general dated 26th February 2024 premised on the grounds on its face and in the supporting affidavit thereof, seeking orders that:
 1. An order does issue cancelling subdivision of parcel of land numbers Evuvore/Nguthi/3727, Evuvore/Nguthi/3728, Evuvore/Nguthi/3729 and Evuvore/Nguthi/3730 all resultant subdivisions Evuvore/Nguthi/226;
 2. The name of the deceased be reinstated as proprietor of parcels of land nos. Evuvore/Nguthi/226 and Evuvore/Nguthi/2358;
 3. The caution registered against parcel number Evuvore/Nguthi/2358 by David Nthiga be removed and/or lifted;
 4. The Deputy Registrar be authorized to execute all the documents in place of the respondent Cecilia Muthoni Kamure to facilitate subdivision and transfer of parcels of land Evuvore/Nguthi/226 and Evuvore/Nguthi/2358 as per the confirmed grant;
 5. The costs of the application be provided for.
2. It was the applicant's case that a grant in the estate of the deceased was issued to the late Anastasia Igoki, wife of the deceased, and co-wife of the 1st applicant. That Anastasia Igoki received parcel number



Evuvore/Nguthi/226 through transmission and then subdivided it into Evuvore/Nguthi/3727, 3728, 3729 and 3730 for purposes of distribution to the beneficiaries. That parcel number Evuvore/Nguthi/2358 was also transmitted to her from the estate. That the grant issued to Anastasia Igoki was subsequently revoked and another grant issued to the parties herein jointly but parcel numbers Evuvore/Nguthi/226 and Evuvore/Nguthi/2358 had already been distributed to the beneficiaries through the revoked grant.

3. The applicants stated that one beneficiary named David Nthiga, who died in the pendency of succession proceedings, had placed a caution on parcel number Evuvore/Nguthi/2358 and at the time of his death, he was not survived by any spouse or children. That the respondent, who is also a co-administrator has become uncooperative and without the court's intervention, the applicants' interests in the estate will be delayed further.
4. The application was unopposed and the court noted that the respondent had been duly served with the application as there was an affidavit of service on the record.
5. The issue for determination is whether the orders sought should be granted.
6. A grant of letters of administration was issued to the applicants and the respondent jointly on 31st October 2019 after the previous grant issued to Anastasia Igoki was revoked. That grant was confirmed and an amended certificate of confirmation of grant was issued on 09th November 2023. It is the duty of the administrators to fully administer the estate of the deceased within 6 months of the date of confirmation of grant. Section 83(f) & (g) of the *Law of Succession Act* Provides thus:
 - “(f) subject to section 55, to distribute or to retain on trust (as the case may require) all assets remaining after payment of expenses and debts as provided by the preceding paragraphs of this section and the income therefrom, according to the respective beneficial interests therein under the will or on intestacy, as the case may be
 - (g) within six months from the date of confirmation of the grant, or such longer period as the court may allow, to complete the administration of the estate in respect of all matters other than continuing trusts, and to produce to the court a full and accurate account of the completed administration.”
7. This provision cannot be attained unless the administrators play their parts including signing the relevant documents enabling transfer of the properties to the beneficiaries. In the case of *Re Estate of Wilfred Munene Ngumi (Deceased)* [2020] eKLR, the court stated;

“Section 83(g) of the Act mandates administrators of an estate to, within six months of confirmation of grant or longer period as the court may allow, complete the administration of the estate, and to produce to the court a full and accurate account of the completed administration. This undertaking cannot be done unless the necessary documents are executed by the relevant parties.....”
8. Where an administrator is unwilling to execute the relevant documents to enable complete administration of the estate, the court has discretion to determine an application such as this one made under Rule 49 of the *Probate & Administration Rules* and on the strength of Section 47 of the *Law of Succession Act*. The application herein was served upon the respondent but she did not oppose the same.
9. In the circumstances, this court shall exercise its discretion in favour of the applicants. The application has merit and it is hereby allowed. The following orders shall issue:



1. The Land Registrar is hereby ordered to cancel registration of land parcel land nos. Evuvore/ Nguthi/3727, Evuvore/ Nguthi/3728, Evuvore/ Nguthi/3729 and Evuvore/ Nguthi/3730 all being resultant subdivisions of Evuvore/ Nguthi/226;
2. The Land Registrar is hereby ordered to revert registration of parcel numbers Evuvore/ Nguthi/226 and Evuvore/ Nguthi/2358 back to the names of the deceased herein;
3. The Land Registrar is hereby ordered to remove and/or lift the caution placed on parcel number Evuvore/ Nguthi/2358 by David Nthiga;
4. Within 30 days of this ruling, the applicants to present all the relevant registrable documents regarding distribution of the estate according to the amended certificate of confirmation of grant issued by this court on 09th November 2023, to the Deputy Registrar of the High Court at Embu for execution on behalf of the 2nd respondent; and
5. There shall be no order as to costs.

10. It is so ordered.

DELIVERED, DATED AND SIGNED AT EMBU THIS 08TH DAY OF MAY, 2024.

L. NJUGUNA

JUDGE

.....**for the Applicants**

.....**for the Respondent**

