



**In re Estate of Caroline Muthoni Chege alias Clloneria Muthoni Chege (Deceased)
(Succession Cause 58 of 2023) [2024] KEHC 7439 (KLR) (20 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7439 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
SUCCESSION CAUSE 58 OF 2023
AC MRIMA, J
JUNE 20, 2024**

BETWEEN

JACOB CHEGE 1ST APPLICANT

MARGARET WANJA CHEGEA 2ND APPLICANT

AND

MARCELIUS LAZIMA CHEGE ADMINISTRATOR

RULING

1. Before Court for determination is a Summons for Revocation of grant dated 6th September, 2021, which was taken out by the Applicants.
2. The Applicants and the Administrator/Respondent are among the nine children of the deceased herein. It is alleged that the Administrator solely applied for the representation of the grant in the High Court of Kenya at Nairobi in P & A Cause No. 277 of 1998 [before the Cause was transferred to this Station] to the total exclusion of the rest of his siblings. That, the resultant Grant was eventually confirmed and the estate wholly devolved to the Respondent thereby disinheriting the rest of his siblings.
3. It was further averred that the Applicants herein, unaware of the pending cause in Nairobi, filed a Citation Cause No. 21 of 2021 before the Chief Magistrates Court at Kitale against the Respondent and the rest of the siblings. That, in a response filed by the Respondent, the Applicants and the rest of the children of the deceased were astonished to learn that the Respondent had secretly filed for the representation of the estate, obtained a grant and had it confirmed in his favour.
4. As a result, the instant revocation application was filed.



5. In his response, the Respondent admitted that he did not disclose the rest of his siblings in the proceedings that led to the issuance of the Grant and its subsequent confirmation. He, however, blamed the non-disclosure on his Counsel.
6. Both parties alluded to the deceased having settled all her children before her death save for the portion that she held as her share and a property within Murang'a County.
7. Upon proposal by the parties, and the approval of this Court, directions issued that the Summons be heard by way of written submissions. However, according to the Court file, it was only the Applicants who complied.
8. Be that as it may, the Court will, nevertheless consider the Summons on the basis of the parties' responses and the submissions.
9. This Court has carefully considered the application, the response and the submissions. Since all the parties are the undisputed children of the deceased, then unless demonstrated otherwise, they all have a stake in the estate.
10. As pointed out, the issue of representation and confirmation of the Grant was hotly contested. The further explanation given by the Respondent was that the rest of the beneficiaries were all along aware of the proceedings and none raised objections.
11. The foregoing response seems not to be supported by the record. I say so because in the proceedings towards the issuance of the grant and the confirmation thereof, the Respondent severally deposed that there were only two beneficiaries being Felix Ikundu Chege and himself. Further, the entire estate devolved solely unto the Respondent thereby effectively disinheriting the rest of the beneficiaries.
12. Therefore, in consideration of the constitutional imperatives of social justice [under Article 10(2)(b) of the *Constitution*], the fair trial rights [under Article 50(1) of the *Constitution*] and the provisions of Section 66 of the *Law of Succession Act*, Cap. 160 of the Laws of Kenya, the Summons is merited. This is, hence, a matter in which all parties ought to be heard accordingly; more so, on the aspect of distribution of the estate. The response to the Summons did not, therefore, present a sufficient legal bar to, otherwise, disallow the Summons.
13. As I come to the end of this ruling, I wish to tender my unreserved apologies to the parties in this matter for the delay in rendering this decision. The delay was occasioned by pressure of work in the High Court at Kitale, Kapenguria and Nairobi and my appointment into a Presidential Tribunal investigating the conduct of a Judge. Apologies galore.
14. Consequently, the following final orders do hereby issue: -
 - a. The Grant of Letters of Administration Intestate dated 8th April, 1998 and the Certificate of Confirmation dated 25th November, 1998 be and are hereby revoked.
 - b. A Fresh Grant of Letters of Administration Intestate is hereby issued in the joint names of Marcelius Lazima Chege, Jacob Chege And Margaret Wanja Chegea.
 - c. The Administrators and/or any of them shall file for confirmation of the Grant within 30 days of this ruling.
 - d. This matter shall be fixed for further directions on 23/09/2024.
 - e. Leave to appeal is hereby granted.



- f. The Hon. Deputy Registrar to transmit copies of this ruling to the parties' Counsel on record immediately.

Those are the orders of this Court.

DELIVERED, DATED AND SIGNED AT KITALE THIS 21ST DAY OF JUNE, 2024.

A. C. MRIMA

JUDGE

Ruling No. 1 virtually delivered in the presence of:

No appearance for the Applicants.

No appearance for the Administrator/Respondent.

Chemosop/Duke – Court Assistants.

