



REPUBLIC OF KENYA



**In re Estate of the Late Nelius Muguru Mwangi (Deceased) (Succession Cause 1545 of 2018) [2024] KEHC 7436 (KLR) (Family) (20 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7436 (KLR)

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

**FAMILY**

**SUCCESSION CAUSE 1545 OF 2018**

**HK CHEMITEI, J**

**JUNE 20, 2024**

**IN THE MATTER OF THE ESTATE OF THE  
LATE NELIUS MUGURU MWANGI (DECEASED)**

**BETWEEN**

**STEPHEN KIRAGU MWANGI ..... 1<sup>ST</sup> CITOR**

**MARY NJERI MWANGI ..... 2<sup>ND</sup> CITOR**

**AND**

**JACKSON MWANGI ..... 1<sup>ST</sup> CITEE**

**LUCY MUTHONI ..... 2<sup>ND</sup> CITEE**

**RULING**

1. In their chamber summons application dated 18<sup>th</sup> November 2022 the Applicants /Citees are asking for the following orders:-
  - (a) That Mary Njeri co-administrator and Francis Wababu beneficiary be compelled to render full account of monies held currently and immediately or subsequently after the death of Nelius Muguru Mwangi aka Muguru w/o Mwangi Wababu in accounts at Cooperative Bank, Family Bank, and Standard Chartered Bank (as enumerated in the summons)
  - (b) That Mary Njeri and Francis Wababu be ordered to surrender all the titles of land and other relevant documents for the property of the estate to three co- administrators for speedy distribution of the estate.
  - (c) That the court be pleased to remove Mary Njeri Mwangi and Francis Wababu as signatories to the accounts of the deceased held at Family and Cooperative Banks.



- (d) That Mary Njeri and Francis Wababu specifically jointly and severally be ordered to surrender kshs 200,000 to Mary Muthoni Gichuhi as per the schedule of distribution confirmed in the grant.
  - (e) That the grant be rectified in the names of Lucy Muthoni co-administrator to be in conformity with the full names Lucy Muthoni Gichuhi as per the national identity card.
  - (f) That the court be pleased to appoint an executor to carry out the process of administration as Mary Njeri is obstinate and a hindrance to the carrying out of smooth distribution of the estate as per the confirmed grant.
2. The application is supported by their sworn joined affidavits dated the same day.
  3. The Citor Mary Njeri Mwangi vide her replying affidavit sworn on 15<sup>th</sup> March 2023 has opposed the same. The other parties who it appears recanted the Applicant's supporting affidavit namely Esther Waithera Kiragu and Gladys Wambui Kiragu have filed an affidavit sworn on 15<sup>th</sup> March 2023.
  4. The court directed the parties to file written submissions which they have and the court has perused the same exhaustively and does not intend to reproduce them here.
  5. The issues herein are clear and discernible. After a long winding and protracted applications and counter applications the court referred the parties for mediation. The same was very successful so that on 1<sup>st</sup> April 2022 the mediators report was filed in court.
  6. Subsequently there was also an addendum mediation settlement which was equally filed.
  7. As a result of the said settlement the parties proceeded to have the grant confirmed on 12<sup>th</sup> April 2022 distributing the estate I suppose as per the mediation report.
  8. The Applicant's application in effect and in my view is premised on the fact that the administrators seemed to drag their feet in effecting the grant as confirmed. This can be deduced from the replying affidavit.
  9. What is strange however is that Esther Waithera, who is actually an administrator with the Applicant and Gladys Wambui Kiragu have since disowned the application through their joined affidavit. They have explained themselves to the effect that they did not understand what they were signing when supporting the Applicant's application.
  10. It appears to me that the Applicant has a strong reservation against Mary Njeri Mwangi who is a co administrator. I do not understand this position as both her and Jackson Mwangi are joint administrators as well.
  11. In my view this battle of supremacy to say the least is completely unnecessary and goes against the spirit of mediation which the parties laboured much to achieve.
  12. Having gone through the mediation exercise successfully, the only logical thing to do is to effect the grant so that each beneficiary goes away with whatever they were bequeathed.
  13. Deducing from the replying affidavit of the Respondents it would appear that the Applicant has not been cooperating as well. This need not be the case noting the position bestowed upon them in law as joint administrators.
  14. In the premises and without regurgitating the issues which have been raised and which the parties themselves have failed to comply I order as hereunder:-



- (a) The grant be rectified to read Lucy Mary Muthoni Gichuhi and not Lucy Muthoni.
- (b) The administrators are hereby directed within 90 days from the date herein to execute the grant dated 12<sup>th</sup> April 2022.
- (c) In the event that there are other assets not captured in the said grant the administrators be at liberty to apply for rectification of the grant.
- (d) Further and in the event that any of the joint administrators wilfully fails to execute any instruments so as to execute the grant, the Deputy Registrar of this court shall be at liberty to execute without any notice.
- (e) Each party to bear its own costs.

**DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 20<sup>TH</sup> DAY OF JUNE 2024.**

**H K CHEMITEI**

**JUDGE**

