



**In re Estate of Susan Warima Ng'ang'a (Deceased) (Succession Cause
8 of 2020) [2024] KEHC 11632 (KLR) (6 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 11632 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
SUCCESSION CAUSE 8 OF 2020**

M MUYA, J

JUNE 6, 2024

**IN THE MATTER OF THE EXECUTOR OF THE WILL OF THE LATE SUSAN
WARIMA NG'ANG'A DATED 1ST FEBRUARY, 2014, PAUL GITHAIGA NGANGA**

BETWEEN

**ANNE MUTHONI MWANGI 1ST APPLICANT
VIRGINIA NYAWIR NDUMIA 2ND APPLICANT
JACINTA WANGECI NDIRITU 3RD APPLICANT
JANE NJERI NG'ANG'A 4TH APPLICANT**

AND

PAUL GITHAIGA NGANGA PETITIONER

RULING

1. The petitioner Paul Githaiga Ng'ang'a filed an application dated 21st March, 2022 for the renunciation of his capacity as executor duly appointed by the deceased will dated 1st February, 2014.
2. In this application he seeks renunciation of his capacity as executor. He maintains that he has not intermeddled in the estate of the deceased and would not intermeddle in the future.
3. The respondents' contention is that the deceased died on 30th August, 2019 having written a will on 1st February, 2014.
4. Grant of letters of administration were issued by the court on 30th June, 2021.
5. That since 31st August, 2019 the executor of the will has been in administration of the Estate of the Deceased and has been collecting rent.



6. It is submitted that the executor cannot casually exit from the proceedings without rendering the accounts of the Estate to the Court.
7. It is incumbent upon the court to satisfy itself that the executor has not intermeddled with the Estate.
8. It can only do so if the executor files in court the accounts of the Estate.
9. These would guide the one appointed by the court instead of the executor in running the Estate of the deceased.

Analysis and Determination:

Issues

1. Whether an executor is required under the law while seeking renunciation of his position as executor to render an account and file it in court?

10. Section 79 of the *law of Succession* provides:-

“The executor or administrator to whom representation has been granted shall be the personal representative of the deceased for all purposes of the grant and subject to any limitation imposed by the grant, all the property of the deceased shall vest in him as personal representative”

11. Section 80(1) of the *Act* provides:-

“A grant of probate shall establish the will as from the date of death and shall render valid all intermediate acts of the executor or executors to whom the grant is made consistent with his or their duties as such”

12. The duties of the executor are found under Section 83 of the law of Succession.

13. Section 83(e)(g)(h) and (j)

e. Within six months from the date of the grant to produce to the court a full and accurate inventory of the assets and liabilities of the deceased estate and a full and accurate account of all dealings therewith upto the date of the account.

f.

g. Within six months form 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 trust, and to produce to the court a full and accurate account of the completed administration.

h. To produce to the court, if required by the court either at its own motion or on the application of any interested party in the estate, a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account.

i. To complete the administration of the estate in respect of all matters other than continuing trusts and if required by the court, either of its own motion or on the application of any interested party in the estate to produce to the court a full and accurate account of the completed administration.

14. By reason of the foregoing it is patently clear that an executor who wishes to renounce his position as an executor should not expect the court to allow him to casually walk away but is required under Section 83 of the *law of Succession Act* to file full and accurate accounts of the estate.



RULING READ AND DELIVERED IN OPEN COURT THIS 6TH DAY OF JUNE, 2024.

In the presence of:-

Waweru for the executor and Kimondo holding brief for Lucy Mwai.

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M. MUYA

JUDGE

