



**In re Estate of the late Wambugu s/o Mariga alias Christopher Mariara (Deceased)  
(Succession Cause 144 of 2004) [2024] KEHC 9130 (KLR) (19 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9130 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYERI  
SUCCESSION CAUSE 144 OF 2004**

**MA ODERO, J**

**JULY 19, 2024**

**ESTATE OF THE LATE WAMBUGU S/O MARIGA  
ALIAS CHRISTOPHER MARIARA (DECEASED)**

**BETWEEN**

**DAVIS NDUNGU WAMBUGU ..... APPLICANT**

**AND**

**CHARLES NDUNGU WAMBUGU ..... 1<sup>ST</sup> RESPONDENT**

**PETER NGUNJIRI WAMBUGU ..... 2<sup>ND</sup> RESPONDENT**

**JANE WANJIKU WAMBUGU ..... 3<sup>RD</sup> RESPONDENT**

**PETER GICHUKI WAMBUGU ..... 4<sup>TH</sup> RESPONDENT**

**RULING**

1. Before this court is the Summons dated 12<sup>th</sup> September, 2023 by which the Applicant Davis Ndungu Maina seeks to be substituted for the one Peter Gichuki Wambugu a beneficiary of the estate who passed away on 22<sup>nd</sup> July, 2023.
2. The application was opposed by one Pauline Wangari Wambugu an administrator of the estate who filed a Replying Affidavit dated 31<sup>st</sup> January, 2024. The said 'Pauline' avers that Peter Gichuku Wambugu is her son. She confirms that he is now deceased. However Pauline states that she does not know the Applicant Davis Ndung'u Maina and questions his legal capacity to represent the estate of Peter Gichuki Wambugu.
3. I have considered this application. I note that the Deceased whose estate is the subject of this Succession cause the late Christopher Wambugu Mariara died way back on 19<sup>th</sup> November, 1999. I have perused the list of survivors of the Deceased contained in the supporting Affidavit dated 26<sup>th</sup> January, 2005. The Applicant Davis Ndung'u Maina is not listed as an beneficiary to the estate.



4. It is therefore curious in what capacity the Applicant seeks to substitute the beneficiary Peter Gichuki Wambugu. The mother of the late Peter Gichuki denies all knowledge of this Davis Ndungu.
5. In order for the Applicant to substitute Peter Gichuki and to represent his estate he must be in possession of letters of Administration in respect of the estate of the said Peter Gichuki. No such Grant of representation issued to the Applicant has been exhibited.
6. In the case of *Isaya Masira Momanyi -v- Daniel Omwoyo & Another* [2017] eKLR the court held that:-

“It is trite law that the estate of a deceased person can only be represented in any legal proceedings by a person who is duly authorized to do so on behalf of the estate only a person who has been issued a grant of letters of administration has capacity to represent the estate of a deceased person” [Own emphasis].
7. In the absence of letters of Administration issued to him and given the objections of the mother of the person the Applicants wishes to substitute I find that the present Application has no merit. The same is dismissed in its entirety. Each party to bear their own costs.

**DATED IN NYERI THIS 19<sup>TH</sup> DAY OF JULY, 2024.**

.....  
**MAUREEN A. ODERO**

**JUDGE**

