



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**In re Estate of Francis Kariuki Nguitu (Deceased) (Succession Appeal  
1 of 2020) [2024] KEHC 13123 (KLR) (17 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13123 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYERI  
SUCCESSION APPEAL 1 OF 2020  
AM MUTETI, J  
OCTOBER 17, 2024**

**IN THE MATTER OF THE ESTATE OF FRANCIS KARIUKI NGUITU (DECEASED)**

**BETWEEN**

**BLASIO NDIRITU KARIUKI ..... APPELLANT**

**AND**

**ELIZABETH WANGECHI MWANGI ..... RESPONDENT**

*(Being an appeal from the judgment of HONOURABLE R. KEFA  
(SRM) delivered on 19th February 2020 in Nyeri CM Succession  
Cause No. 234 of 2018 formerly HC SUC Cause No. 738 of 2015)*

**RULING**

**Introduction**

1. This is a ruling on an application for rectification of grant brought under section 74 of the [Law of Succession Act](#) and Rule 43(1) of the Probate and Administration Rules.
2. The applicant seeks to have the certificate of grant rectified to include her name in the rectified certificate of grant issued on 8<sup>th</sup> November 2022.
3. The application is supported by the annexed affidavit of Elizabeth Wangeci Mwangi the applicant.
4. One respondent vide an affidavit in reply sworn on 23<sup>rd</sup> January 2024, maintains that the initial certificate of confirmation of grant dated 19<sup>th</sup> Feb 2020 in Nyeri High Court P & A Appeal No. 1 of 2020 did not include the applicant herein Elizabeth Ndiritu Kariuki as a co-administrator.
5. The respondent's view is that if indeed the applicant is aggrieved by the decision of the learned Honourable Justice Jesse Nyagah, she should simply appeal against that judgment other than vexing this Court by way of this application.



## **Analysis**

6. I have carefully studied the file ,the instant application, the supporting affidavit its annexures as well the replying affidavit.
7. It is rather sad to note that a succession cause lodged in Court way back in 2018 parties are still tussling over who is to be named as an administrator.
8. The matter has progressed to the appellate level being HCSCC Cause Appeal No. 1 of 2020 in which the applicant now is a respondent.
9. The appeal has since been determined vide the judgment of the learned Honourable Justice J.N Nyaga delivered on 8<sup>th</sup> November 2022.
10. In the circumstances I am constrained to agree with the respondent here that the issue of the grant need not be reopened and if indeed the applicant is dissatisfied with the decision of my brother Judge, the proper timing to do is to appeal against the judgment.
11. The applicant has not demonstrated the value of her inclusion in the rectified certificate of confirmation of grant would add to the administration of the estate which is at the distribution stage.
12. The grant the application by the applicant would serve no useful purpose for there is no ornamental value that the certificate of grant would acquire by the mere inclusion of the applicant's name in it.
13. Litigants in succession causes need to be advised that some contests only serve one purpose; that being, the delay in each of the beneficiaries getting to know what their rightful share is from the deceased's estate. Since this the High Court has already pronounced itself on the issue of distribution , the filing of other applications would just be tantamount to vexing the Court.
14. The present application is simply calculated at harassing or subduing the respondent and the other beneficiaries who are the beneficiaries of the orders issued by Justice J.N Njagi in connection with land parcel No. Aguthi/Muruguru/1370.
15. It is the view of this court that the application by the applicant is brought in order to annoy, irritate, distress or harass the respondent for the orders sought would not serve any useful purpose. The courts have found such proceedings to be vexatious and an unwarranted waste of precious judicial time-see Rose vs Canada (Royal Canadian Mounted Police), 2009BCSC 1750 at para 27.
16. The application in the considered view of this Court is nothing more than an abuse of the Court process.
17. It is therefore dismissed with costs to the respondent.
18. It is so ordered.

**DATED, SIGNED AND DELIVERED IN VIRTUAL COURT AT NAIROBI THIS 17<sup>TH</sup> DAY OF OCTOBER 2024.**

**A. M. MUTETI**

**JUDGE**

In the presence of:

Kiptoo: Court Assistant

Mrs Maina for the Applicant



Karanja Maina for the Respondent

