



**In re Estate of Amos Chege Ngethe (Deceased) (Succession Cause 345 of 2006) [2024] KEHC 11765 (KLR) (4 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 11765 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
SUCCESSION CAUSE 345 OF 2006  
SM MOHOCHI, J  
OCTOBER 4, 2024  
IN THE MATTER OF THE ESTATE OF AMOS CHEGE NGETHE  
(DECEASED)**

**BETWEEN**

**ESTER NJERI CHEGE ..... APPLICANT**

**AND**

**DAVID KARUNGU CHEGE ..... RESPONDENT**

**RULING**

1. Chamber Summons Application dated 6<sup>th</sup> December, 2023 brought under Sections 45 and 47 of the [Law of Succession Act](#) and Rule 73 of the Probate and Administration Rules seeking:
  - a. That this Honourable Court be pleased to restrain the Respondent from intermeddling with the estate of the deceased Amos Chege Ngethe.
  - b. That the Costs be in the cause.
2. The Application was premised on the grounds on its face and the Supporting Affidavit of Esther Njeri Chege sworn on even date. She deponed that the Respondent vide Notice dated 18<sup>th</sup> March, 2022 informed tenants not to deposit rent in her account and has been collecting rent from the properties of the deceased. She contends that she has been unable to account for the money collected from the rental premises as the Respondent is the one who has been collecting.
3. She averred despite cease letter dated 31<sup>st</sup> July, 2023 from the Applicant’s counsel, the Respondent still continues to collect rent. She has been utilizing the proceeds to cater for he daily needs and those of her last-born son’s family and unless the Court intervenes, the estate stands to suffer wastage.



4. The Respondent's on the other hand vide Relying affidavit sworn on 12<sup>th</sup> March, 2024 opposed the Application and denied intermeddling. He averred that the Applicant who is his mother has been collecting rent directly or through her agents. That she is ailing, in a wheel chair and is unable to administer the estate. That despite being directed by Court on 2<sup>nd</sup> February, 2023 to render full account she has failed to do so and urges Court to deny her audience till she complies with those orders.
5. He further stated that pursuant to the family meeting held in late July, 2023 where the Applicant was also present, it was agreed that a joint account be opened. The account No. 1318084253 was opened with Daniel Karungu Chege, Patrick Kimani Chege and Elizabeth Ngendo Chege being signatories, where all the rental deposit is deposited and collected with the consent of the Applicant. He added that money is withdrawn from the rent collections for her medical and daily maintenance, salary for the house help hired to take care of her, pay her NHIF, electricity and water bills as well as construction of a new sewer system for the tenants.
6. That the Applicant is not honest and has failed to disclose the existence of the joint account yet all those activities were authorized by the Applicant and it is strange that she singled him out among the three children. She has colluded with Patrick Kimani Chege to oppress him and discriminate against him. He urged the Court to direct that she appears in person for assessment.
7. The Court on 27<sup>th</sup> February, 2024 directed parties to file written submissions. Neither party's submissions are on record.

#### **Determination**

8. The Application before me is dated 6<sup>th</sup> December 2023 seeks restraining orders against the Respondent from intermeddling with the estate of his deceased father that is under the Administration of his mother
9. It is noteworthy that this instant grant was confirmed thirty-eight (38) years ago on the 22<sup>nd</sup> June 1986, a time which the Respondent was aged twenty-two (22) years, John Ngethe (deceased) was aged twenty-seven (27) years, Elizabeth Ngendo was aged twenty (20) years, Mary Wanjiru was aged twenty-five (25) years and Patrick Kimani was a toddler aged five (5) years.
10. On the 2<sup>nd</sup> February 2023, the Applicant-Administrator was ordered to present a statement of account pursuant to Section 83(e) of the Law of Succession Act within forty-five (45) days and failed to do so.
11. The Respondent contends that the Administrator is aged, ailing, confined to a wheelchair and is unable to administer the estate and that this court should order for the physical appearance of the administrator and in the meantime, she should be denied audience.
12. By this Courts Ruling dated 2<sup>nd</sup> February 2023 the question of annulment/revocation of grant was pegged on and was to await compliance by the Administrator, she elected not to comply but rather file this Application.
13. This court views the Administrators action of forestalling distribution of the deceased estate for over thirty-eight (38) years to an extent that the rightful heirs might never enjoy their entitlements is bizarre, selfish and distasteful; the Administrator deserves no equitable reliefs from this court.
14. The Application dated 6<sup>th</sup> December 2023 is without any merit and is accordingly dismissed.
15. Parties shall bear their own costs.

It is so Ordered



**DATED, SIGNED AND DELIVERED VIA TEAMS PLATFORM AT NAKURU ON THIS DAY OF 4<sup>TH</sup> DAY OF OCTOBER, 2024.**

**S. MOHOCHI**

**JUDGE**

