



REPUBLIC OF KENYA



**In re Estate of Peter Charles Nderito (Deceased) (Succession Cause
307 of 2006) [2024] KEHC 11666 (KLR) (Civ) (3 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 11666 (KLR)

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

CIVIL

SUCCESSION CAUSE 307 OF 2006

HK CHEMITEI, J

OCTOBER 3, 2024

**IN THE MATTER OF THE ESTATE OF THE
LATE PETER CHARLES NDERITO (DECEASED)**

BETWEEN

ANGELA WAMBUI NDERITU APPLICANT

AND

JOHN KANGETHE NDERITU 1ST RESPONDENT

FLORENCE AUMA NDERITU 2ND RESPONDENT

ELIZABETH WARIARA NDERI 3RD RESPONDENT

RULING

1. The Amended summons for confirmation of grant dated August 8, 2022 seeks the following orders:-
 - a. That the grant of letters of administration intestate made to Angela Wambui Nderito on 28th August 2015 be confirmed.
 - b. That the deceased's estate be distributed as per the proposal in the supporting affidavit of Angela Wambui Nderito filed herewith.
 - c. Costs in the cause.
2. The application is based on the supporting affidavit of the Applicant sworn on even date.
3. The application has been opposed by one Tania Wariara Nderito who is the deceased granddaughter and the daughter of the 2nd Respondent as well as the deceased late son vide her affidavit sworn on 2nd February 2024.



4. The issues herein are relatively clear and the same have been deduced well in the rival affidavits and submissions.
5. The late Peter Charles Nderito died on 9th February 1999 intestate. He left behind the following, Elizabeth Nderito, the widow, Angela Wambui Nderito daughter, John Kangethe Nderito son and Tanya Wariara Nderito and Wambui Nderito who are the grandchildren and the children to the 2nd Respondent who she seared with the late Martin Mathenge the son to the deceased respectively.
6. The deceased left behind the properties well enumerated under paragraph 6 of the affidavit in support of the application.
7. The Applicant/administratrix of the estate has explained extensively on how the estate ought to be distributed which in essence is an equal distribution between the beneficiaries.
8. The objector Tanya Nderito position is that she ought to be appointed as a co administrator for the simple reason that she does not believe that the Applicant will be fair to her and her sister. She gave a chronology of events that took place on 22nd December 2022 where they were attacked by goon's courtesy of the Applicant herein.
9. She further contented that the properties ought to be valued before being disposed and she single out the Mombasa property namely LR No. IMS/316 measuring 0.75 acres.
10. I have perused the history of this matter, the ruling of my sisters Muigai J, Ongeri J and Odero J which is on record. I think the issues of the Kitusuru properties, that is, LR No. 7741/285 and 286 was sorted out by the said decisions. In effect LR No. 286 was to be divided between the Applicant and her brother the 1st Respondent herein. The other one LR No. 285 was to go to the 2nd Respondent and her two daughters.
11. Other than the issue of not trusting the Applicant and the need to value the properties especially the Mombasa one there is none in my view any other plausible reason why the grant should not be confirmed. I do not find it necessary at this penultimate time to bring in the objector, who apparently is a grandchild of the deceased at this juncture. The Applicant ought to be allowed to complete the estate.
12. Removing a court appointed administrator of an estate ought to be done sparingly and with cogent and satisfactory reasons as provided under Cap 160. In this case I do not think she has failed to discharge her responsibilities.
13. The issues surrounding any intermeddling with the Kitusuru property namely No. 7741/286 by either of the parties will be laid to rest once the grant is confirmed. I do agree with the Applicant that with this kind of animosity witnessed for almost twenty years between the parties it is only fair that the estate be distributed and each of them takes away their respective entitlement.
14. Looking at the mode of distribution under paragraph 9 of the supporting affidavit I find the same reasonable in the circumstances. All the properties are to be shared equally, that is each is to take a third, with the house of Martin Mathenge, who is represented by the 2nd Respondent and her two daughters taking a third as a block. Of course they shall be at liberty thereafter to divide their portion among themselves.
15. To allay the fears of the objector and to be fair to all the parties herein it is necessary to value any of the assets which has been proposed to be sold and the proceeds to be shared out. The Applicant shall therefore seek an input from a professional valuer to carry out a valuation of any of the properties and more in particular IMS/316 MOMBASA before disposing it.



16. In view of the above observations the application dated 8th August 2022 is allowed as prayed.

17. Costs shall be in the cause.

DATED SIGNED AND DELIVERED VIA VIDEO LINK THIS 3RD DAY OF OCTOBER 2024.

H K CHEMITEI

JUDGE

