



**M'Arachi v M'Arachi (Civil Appeal 121 of 2021)  
[2023] KEHC 520 (KLR) (3 February 2023) (Judgment)**

Neutral citation: [2023] KEHC 520 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
CIVIL APPEAL 121 OF 2021  
TW CHERERE, J  
FEBRUARY 3, 2023**

**BETWEEN**

**JOSEPH MUTHOMI M'ARACHI ..... APPELLANT**

**AND**

**RUTH NKOU M'ARACHI ..... RESPONDENT**

*(Being an appeal from the ruling in Meru Succession Cause No.  
89 OF 2016 by Hon. E. Shimonjero (RM) on 28th July, 2021)*

**JUDGMENT**

**Background**

- 1) By an application dated January 21, 2020, appellant and another sought orders as against the respondent as follows;
  - 1) Revocation of the grant issued to appellant and respondent on August 29, 2017
  - 2) Accounts from properties situated in LR. Ntima/Igoki/5673 from December, 2016 to date
  - 3) Rental income from LR. Ntima/Igoki/5673 be deposited in court until the cause is concluded
  - 4) A determination that deceased died testate
  - 5) Costs
3. Respondent having sought specific relief, it was expected of the trial magistrate to specifically state which of the relief had been proved and how much had been awarded under each heading.
3. By a ruling dated July 28, 2021, the trial magistrate stated that the grant issued to appellant and the respondent stood revoked as at January 3, 2020. The court noting that the estate could not be



left unadministered re-issued the grant to appellant and respondent and directed that they apply for confirmation within 45 days.

3. On August 27, 2021, appellant lodged this appeal. The pendency of the appeal notwithstanding, and in compliance with the court's order dated July 28, 2021, appellant on September 13, 2021 filed an application for confirmation of grant and made his proposal for the distribution of the estate.
3. Consequently, on 27<sup>th</sup> September, respondent also filed an application for confirmation of grant and made his proposal for the distribution of the estate.
3. I have considered the appeal in the light of the submission filed by both parties. There is no dispute that deceased's estate is yet to be distributed. I have no difficulty in agreeing with the respondent that the issues raised in this appeal are better ventilated before the trial court at the point of hearing the pending applications for distribution of the estate and objections if any.
3. Consequently, I find that this appeal is not merited and it is dismissed

**DATED AT MERU THIS 03<sup>RD</sup> DAY OF FEBRUARY 2022**

**WAMAE. W. CHERERE**

**JUDGE**

**Appearances**

**Court Assistant - Morris Kinoti**

For Appellant - Mr. Kaimenyi for Kaimenyi Kithinji & Co. Advocates

For Respondent - Mr. Ondari for Leonard Ondari & Co. Advocates

