



In re Estate of M’Ithabu M’Rimbitu(Deceased) (Succession Cause 497 of 2009) [2023] KEHC 2329 (KLR) (20 March 2023) (Ruling)

Neutral citation: [2023] KEHC 2329 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 497 OF 2009
TW CHERERE, J
MARCH 20, 2023**

IN THE MATTER OF THE ESTATE OF M’ITHABU M’RIMBITU(DECEASED)

BETWEEN

MARGARET MUKOMUNENE M’ITHABU 1ST APPLICANT

JAMES MWIRIGI M’ITHABU 2ND APPLICANT

AND

ESTHER NTIRINGA MUTWIRI ADMINISTRATOR

RULING

1. By orders dated December 14, 2020, this court directed the Applicants herein to apply for confirmation of the grant within in 14 days’ failure to which thus court would be at liberty to revoke the letters of administration issued to them on January 26, 2010.
2. When the matter came up on May 3, 2021, Applicants did not attend. This court noted and recorded that Applicants had not complied with the orders dated December 14, 2020 and thereby appointed the Respondent as the administrator of the estate.
3. I am surprised that close to two years since her appointment, Respondent too has not applied for confirmation of the grant.
4. I have considered the Applicants’ summons dated December 4, 2022 in the light of the supporting affidavit sworn by the Applicants on December 14, 2022 and the replying affidavit sworn by the Respondent on February 26, 2023.
5. From the history of this matter and the sentiments expressed by Onginjo J in her ruling dated August 2, 2018, I find that Applicants are non-suited to be re-appointed as administrators of deceased’s estate.



6. No material has been placed before the court for re-opening of application dated June 11, 2013, close to 5 years since the ruling on that application was made by Onginjo J on August 2, 2018.
7. Similarly, no case has been made to justify involvement of the Director of Criminal Investigation (DCI) or visit to the disputed asset at this point in time and the prayer for such orders is declined.
8. There is no application for confirmation of the grant before the court and a prayer that the court confirms the grant is therefore misdirected.
9. In the end,
 1. The summons dated December 4, 2022 is disallowed with costs to the Respondent.
 2. Respondent has 30 days to file and serve application for confirmation
 3. Applicant will have 14 days from date of service to respond to the application if they so wish
 4. If there be a dispute, parties will have 14 days each to file and serve their respective witness statements for hearing of the application for confirmation by way of viva voce evidence
 5. Mention on 20th July, 2023 to confirm compliance and for further orders as may be appropriate.

DATED AT MERU THIS 20TH DAY OF MARCH 2023

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistant - Morris Kinoti

For Applicants - Mr. Munene for Munene Kirimi & Co. Advocates

Respondent - Mr. Kithinji for Kithinji Kirigiah & Co. Advocates

