



**In re Estate of Mary Sekunda Wangui Kariuki (Deceased) (Succession Cause E1482 of 2020) [2023] KEHC 24380 (KLR) (Family) (19 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 24380 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE E1482 OF 2020  
MA ODERO, J  
OCTOBER 19, 2023  
IN THE MATTER OF THE ESTATE OF MARY SEKUNDA WANGUI KARIUKI (DECEASED)**

**BETWEEN**

**JOHN NJUNGE KARIUKI ..... PETITIONER**

**AND**

**HILLARY KAMAU KARIUKI ..... OBJECTOR**

**RULING**

1. Before this Court for determination is the Petition for Grant of Letters of Administration Ad Colligenda Bona dated 24<sup>th</sup> August 2022 filed by John Njunge Kariuki in his capacity as a son to the Deceased.
2. The Objector Hillary Kamau Kariuki opposed the Petition through the Grounds of Opposition dated 6<sup>th</sup> September 2022. The matter was canvassed by way of written submissions. The Petitioner filed written submissions dated 5<sup>th</sup> May 2023 whilst the Objector relied upon his written submissions also dated 5<sup>th</sup> May 2023.

**Background**

3. This matter relates to the estate of the late Mary Sekunda Wangui Kariuki (hereinafter ‘the Deceased’) who died intestate on 13<sup>th</sup> July 2020. A copy of the Death Certificate Serial No. 1074331 appears as Annexure ‘JNK 1’ to the Citation dated 3<sup>rd</sup> December, 2020.
4. The Deceased was survived by the following persons:
  - 1) Kevin Njoroge Kariuki - Son (Deceased)



- 2) Ann Wanjiku Ndirangu - Daughter
  - 3) Nicholas Njama - Son
  - 4) Hillary Kamau - Son
  - 5) Micheal Muchiri - Son
  - 6) John Njunge Kariuki - Son
  - 7) Alice Waithira - Daughter
5. Amongst the properties left behind by the Deceased was the property known as LR No. 195/62 Karen (hereinafter 'the Karen Property'). The Applicant states that the said Karen Property was actually registered in the name of the Deceased's husband John Njoroge Kariuki who himself passed away on 2<sup>nd</sup> May 2010.
  6. The Petitioner avers that the Kenya Revenue Authority (KRA) has issued a demand Notice dated 28<sup>th</sup> July 2022 claiming arrears of rates in the amount of Kshs.3,501,242/= as due and owing. The Applicant states that he does not have the funds required to clear the amount being demanded by KRA.
  7. The Applicant now prays to be issued with a Limited Grant to enable him withdraw the amount required from the Deceased's Post Bank Account in order to prevent the auction of the Karen property on account of unpaid rates.
  8. The Objector states that this application ought to have been filed in the Succession Cause relating to the estate of John Njoroge Kariuki who is the registered as the owner of the Karen property. The Objector states that his objection filed in this matter is yet to be heard and he wishes the same to be determined before any other orders can be issued by the court.
  9. According to the Objector some rental properties belonging to the Deceased at Nairobi West have been mismanaged and this is why there are no funds to clear the outstanding rates.

### **Analysis and Determination**

10. I have carefully considered the Petition for Special Grant. The objection filed thereto as well as the written submissions filed by both parties.
11. I note that a Grant of letters of Administration Intestate was infact issued to the Petitioner herein on 7<sup>th</sup> September 2021. However, the Petitioner cannot utilize that Grant to withdraw funds from the Deceased's bank accounts. Hence the present application seeking a Special Limited Grant.
12. The Petitioner states that he requires the funds in question to settle rate arrears due on the Karen property. Annexed to the Petition is a Demand for Rates and Interest dated 28<sup>th</sup> July 2022 issued by the KRA. The demand is addressed to a Mr. J.N. Kariuki and is for an amount of Kshs.3,501,242/=.
13. The Deceased herein is not J.N. Kariuki. The Deceased in this matter is Mary Sekunda Wangui Kariuki. Therefore, the demand in question was not addressed to the Deceased.
14. I have perused the Title Document for the parcel of Land Known as L.R. No. 195/62. That property is registered in the name of John Njoroge Kariuki not in the name of Deceased. Therefore, the registered owner of that Karen property is John Njoroge Kariuki.



15. The court is told that the John Njoroge Kariuki was the Deceased's husband and that he passed away on 2<sup>nd</sup> May 2010. A copy of his Death Certificate is annexed to the Petition.
16. Despite having pre deceased the Deceased herein by about ten (10) years it appears that no steps were ever taken to transmit this Karen property into the name of the Deceased. There is also no evidence that the Deceased herein was ever appointed as Administrator of the estate of her late husband.
17. I do agree with the Objector that this application ought to have been filed under the Succession Cause relating to the estate of the said John Njoroge Kariuki. This Probate Court has a duty to protect and preserve the assets of the Deceased. The Karen Property is not an asset belonging to this Estate. Therefore, there exists no justifiable cause to remove an amount of Kshs.3.4 Million from this estate to settle arrears which are not being demanded from this Deceased.
18. The Petitioner is advised to expedite confirmation of the Grant which he holds in order to enable him access the Deceased's bank account if need be.
19. Finally, I find no merit in this Petition. The same is dismissed in its entirety. This being a family matter each side will bear their own costs.

**DATED IN NAIROBI THIS 19<sup>TH</sup> DAY OF OCTOBER, 2023.**

**MAUREEN A. ODERO**

**JUDGE**

