



REPUBLIC OF KENYA



In re Estate of Muthoni Karanja alias Paulina Muthoni Karanja (Deceased) (Succession Cause 67 of 1999) [2024] KEHC 14251 (KLR) (15 November 2024) (Ruling)

Neutral citation: [2024] KEHC 14251 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 67 OF 1999
RN NYAKUNDI, J
NOVEMBER 15, 2024
IN THE MATTER OF THE ESTATE OF MUTHONI KARANJA
ALIAS PAULINA MUTHONI KARANJA (DECEASED)**

RULING

1. The principal deceased passed away on September 25th, 1998, in Langas, Eldoret, within Uasin Gishu District, Republic of Kenya. Subsequently, the deceased's son, Wanjohi Karanja, filed a petition seeking Letters of Administration on March 25th, 1999. In the absence of any objections, the grant was issued on April 2nd, 2001. Following a significant interval of 11 years, two individuals - Michael Karanja Kinyanjui and Joseph Karanja Wanyoike - qualifying as dependants under Section 29 of the *Law of Succession Act*, submitted an application for confirmation of the aforementioned grant. After another considerable passage of time, spanning 12 years, Rodah Wangare Kinyanjui, daughter of the deceased, presented herself before this court with summons dated August 29th, 2024, pursuing the following orders.
 - a. That the grant of letters of administration intestate issued to Wanjohi Karanja be rectified in terms of Section 81 of the Succession Act Cap 160 by substituting Wanjohi Karanja with Rodah Wangare Kinyanjui.
 - b. Costs of this application be in the cause.
2. The application's foundation rests upon the demise of Wanjohi Karanja on May 26th, 2017. His relationship to the deceased falls within the scope of Section 81 of the Act, which establishes a hierarchical order of priority concerning rights under probate and administration.

Analysis and determination

3. This concerns the administration of the estate of Muthoni Karanja Alias Paulina Muthoni Karanja (deceased). The deceased passed away on September 25th, 1998, in Langas, Eldoret. Letters of Administration were granted to her son, Wanjohi Karanja, on April 2nd, 2001. The application before me, brought by Rodah Wangare Kinyanjui, arises from the death of the administrator, Wanjohi Karanja, on May 26th, 2017.



4. The fundamental issue arising from this application is the legal effect of death of a sole administrator on a grant of letters of administration. This necessitates careful examination of the applicable legal principles.
5. The Law of Succession Act is clear that a grant of letters of administration, except where made to the Public Trustee or a Trust Corporation, is issued in personam and is not transferable (see sections 56 and 57). The Act does not contemplate "substitution" of administrators. Instead, it provides for making of fresh grants after revocation, or on death of administrator, or on renunciation of right to apply for executorship.
6. The application before me seeking substitution is fundamentally flawed. Where a sole administrator dies, the grant becomes useless and inoperative by reason of the subsequent event of their demise. While the Law of Succession Act does not explicitly define what constitutes "the grant has become useless and inoperative through subsequent circumstances", the death of an administrator clearly renders the grant inoperative due to its personal nature.
7. It is in In the Matter of the Estate of Mwangi Mugwe alias Eliza Ngware (Deceased) Nairobi High Court Succession Cause No. 2018 of 2001 where Khamoni J held that an application for substitution was improper and could only be brought under Section 76 of the Law of Succession Act for revocation of grant on grounds that it had become useless and inoperative following the demise of the holder.
8. It bears emphasis that this position would be different if we were dealing with multiple administrators, where section 81 would apply, vesting powers in the survivors. However, in the present case, we are dealing with a sole administrator who is now deceased.
9. In light of the foregoing, the application for substitution is unmerited. The grant issued to Wanjohi Karanja on April 2nd, 2001, is hereby revoked under section 76(e) of the Law of Succession Act, having become useless and inoperative through his death. Further, that during the administrator's now deceased lifetime, he failed to transmit the estate to the beneficiaries within 6 months' timeline and thereafter filed a probate account under Section 83(e) and (g) of the Act. That means that he also failed to proceed diligently with the administration of the estate rendering it necessary for the applicant to file the instant application. It goes without saying that the provisions of section 76 shall apply in the best interest of the estate and the beneficiaries.
10. For the foregoing reasons, the Grant of Letters of administration to Wanjohi Karanja be annulled and in its place the following declarations shall apply:
 - a. The Applicant Rhoda Wangare Kinyanjui, pursuant to Section 66 of the Act do petition for grant of letters of administration to the estate of Muthoni Karanka alias Paulina Muthoni Karanja within 21 days from today's ruling.
 - b. The Petition forms and affidavit be shared with the beneficiaries to the estate of the deceased before final endorsement by the court.
 - c. That a notice of such Petition be dispatched to the Principal Registry Nairobi for onward gazettelement by the Government printer.
 - d. A status conference be held on 18th December, 2024
 - e. The costs of this application be in the cause.

DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 15TH DAY OF NOVEMBER, 2024

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R. NYAKUNDI
JUDGE

In the Presence of:
Rhoda Muthoni

