



REPUBLIC OF KENYA



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In re Estate of Lintari Likirigua alias Litaru Rikirigua (Deceased) (Succession Cause 15 of 2016) [2024] KEHC 14632 (KLR) (14 November 2024) (Ruling)

Neutral citation: [2024] KEHC 14632 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 15 OF 2016
EM MURIITHI, J
NOVEMBER 14, 2024
IN THE MATTER OF THE ESTATE OF LINTARI
LIKIRIGUA ALIAS LITARI RIKIRIGUA (DECEASED)**

BETWEEN

MARGARET NCOORO PETITIONER

AND

EUNICE KAOME 1ST RESPONDENT

REGINA KAOME 2ND RESPONDENT

GRACE KALANGI 3RD RESPONDENT

IBRAHIM NGULA 4TH RESPONDENT

AND

FLORA KAGENDO MUTUKU OBJECTOR

AGNES KAMAMI MWENDIA OBJECTOR

RULING

1. By summons for revocation or annulment of grant dated 14/8/2024 pursuant to Section 76 (b) and (c) of the *Law of Succession Act*, Rules 26 and 40 (8), Rules 41(3) and 42(2), 43 & 44 of the Probate & Administration Rules, the objectors/applicants seek that:

1. Spent

The letters of Administration made to Magaret Ncooro, being the petitioner, be revoked and a fresh one issued to Flora Kagembo Mutuku, the 1st Objector/Applicant.



3. The grant of letters of administration intestate made to Margaret Ncooro on the 19th day of July 2024 as the administrator/respondent herein be revoked/annulled.
4. The illegal registration of subdivisions of the deceased's property known as Ithima/Antuambui/2360, Ithima/Antuambui/2942 and Ithima/Antuambui/425 and any transfers be declared null and void and all the titles arising from the illegal transfers is any be revoked and cancelled.
5. spent
2. The application is predicated on the grounds that the proceedings to obtain the grant were defective in substance, the grant was obtained fraudulently by making a false statement or by concealment from the court some heirs of the estate and the consent of the rightful heirs was not sought and/or obtained.
3. In her affidavit in support of the application, the 1st objector/applicant avers that they are granddaughters of the deceased herein and the daughters of Mutuku M'Litari and Mwendia M'Litari (both deceased) respectively. Although the deceased died before he could subdivide and transfer the suit properties to his children, he had already shown them where they would set up their respective homes. The petitioner took out letters of administration without consulting other family members thus leaving some out. The petitioner has embarked on a mission to evict them from their homes which will render them destitute. They are apprehensive that the petitioner may transfer the estate properties to 3rd parties for value without notice. It is in the interest of justice that the grant is revoked and a fresh one issued for equitable sharing of the estate.
4. The petitioner swore a replying affidavit on 4/9/2024 in opposition to the application. She accuses the 4th respondent of sowing discord among the beneficiaries herein, because his bid to get a share of the estate herein was rejected by the court. She is convinced that the applicants have filed the application at the behest of the 4th respondent. It is her contention that the families of the applicants were equally provided for from the onset, hence the application is meaningless and a waste of court's time. According to her, this matter ought to come to an end in view of the last order made by this court visiting the property.
5. The application was urged orally in court and a ruling reserved.

Determination

6. In determining an application for revocation of grant dated 3/8/2022, the court, after due consideration of the evidence led by the parties inclusive of the applicants herein, delivered its ruling dated 31/7/2024 which read in part that;

“The alleged lack of provision of the children by beneficiary Mutuku (deceased) and the inequitable distribution of the Estate asset to the detriment and prejudice of the beneficiaries as against the 4th Respondent purchaser, is noted. The effective remedy appears to this court to be the realignment of the subdivisions of the land to ensure firstly, that all the five children of the deceased get their respective equal share to the estate, and where a child of the deceased is himself or herself deceased, her children should take his/her share, as is the case for Mwambia and Mutuku. Secondly, as it is agreed that some of the children had sold portions of their shares to the 4th Respondent purchaser, his share should be carved out of their respective shares, without affecting the shares of the children such as the Applicant and Mutuku who have not sold their portions. Significantly, it is unconscionable to allow the buyer to take the prime portion fronting the road while children of the deceased who



did not sell their shares are given portions which are not well situated with respect to the road frontage.”

7. Pursuant to this court’s direction, the sub county surveyor visited the locus in quo and carried out the subdivisions of the land into 5 equal portions measuring 0.077 Ha each as evidenced by the report filed herein dated 13/9/2024.
8. This court vide its ruling of 31/7/2024 made it expressly clear that the interests of the children of the deceased, who are themselves deceased, were taken care of and this application, as urged by the petitioner is utterly unnecessary, meaningless and a waste of the court’s precious time. The court would be turned into a circus if all the children of the deceased beneficiaries interchangeably filed superfluous applications for provision. Had counsel for the applicants, who are otherwise strangers to these proceedings for want of locus standi, done some due diligence, he would have appreciated that the issues raised in this otherwise needless application were conclusively addressed by the court in its ruling of 31/7/2024.
9. To put the same into perspective, the court by its said ruling made final orders allowing prayers 2, 3, 5 and 6 of the application dated 3/8/2022 in the following terms:
 1. That the honourable court do issue restraining orders against respondents from interfering with applicant’s parcel of land in the deceased estate and those of other beneficiaries in parcel no. Ithima/Antuambui/2942.
 2. That the honourable court be pleased to order the respondents to remove the fence illegally placed in the deceased estate land parcel L.R Ithima/Antuambui/2942 dividing the same in six units.
 3. That the honourable court do issue an order declaring Ibrahim Ngula the 4th respondent is not a beneficiary of deceased estate and he be restrained from interfering with the deceased estate whatsoever.
 4. That the honourable court be pleased to declare the following as deceased beneficiaries who are entitled to share his estate as reflected in the mutations and the manner parties are settled in the estate before respondents interfered.
 - a. Margaret Ncooro – daughter b. Grace Kalangi M’ibere – daughter
 - c. Mwendia Liakiribua (deceased) - Son represented by his children (Rose Mwendia, Kamami Mwendia and Kamau Mwendia)
 - d. Mutuku Likiribua (deceased daughter represented by his daughter Kagendo Mutuku).
 - e. Kaome Likiribua- (deceased daughter represented by Eunice Kaome, Regina Kaome, Romano Kaome, Simon Kaome, Susan Kaome, Stephen Kaome & Flora Kaome).”
10. Having exhaustively determined the issues now raised in the instant application vide its ruling of 31/7/2024, the court dares say that it is functus officio. The present applicant must be a desperate attempt to delay the day of reckoning! The Court will not countenance such an abuse of its process.

Orders

11. Accordingly, for the reasons set out above, this court finds the application dated 14/8/2024 to be wholly without merit and it is hereby dismissed.
12. There shall be no order as to costs.



Order accordingly.

DATED AND DELIVERED THIS 14TH DAY OF NOVEMBER, 2024.

EDWARD M. MURIITHI

JUDGE

APPEARANCES:

Mr. Mutembei for Petitioner. Mr. Omari for the 4th Objector.

M/S Bebo and Mose for the Applicant.

