



Mutahi (Suing as the Administratrix of the Estate of Andrew Muthee Wanyoike - Deceased) v Wanyoike (Probate & Administration E124 of 2023) [2024] KEHC 14552 (KLR) (15 November 2024) (Directions)

Neutral citation: [2024] KEHC 14552 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
PROBATE & ADMINISTRATION E124 OF 2023
DO CHEPKWONY, J
NOVEMBER 15, 2024**

BETWEEN

LUCY WANGECI MUTAHI (SUING AS THE ADMINISTRATRIX OF THE ESTATE OF ANDREW MUTHEE WANYOIKE - DECEASED) APPLICANT

AND

MARY MWENDE WANYOIKE RESPONDENT

DIRECTIONS

1. In this cause, there are three(3) applications pending determination. They are:-
 - a. The Summons General dated 18th April, 2024 filed by the Applicant (Lucy Wangeci), seeking Injunctive orders on the property of the Deceased being Kiamumbi/Mun-Block 5 (Kiamumbi) 1688, an account on all rental income, usage of the funds from the income generated to utilized to pay for education and upkeep of the deceased's school going children.
2. This application has been opposed by the Replying Affidavit by Mary Mwenda Wanyoike sworn on 14th May, 2024. The Applicant filed his submissions dated 10th June, 2024 whereas the Respondent filed hers dated 14th June, 2024.
3. The Applicant filed his submissions dated 10th June, 2024, while the Respondent filed hers dated 14th June, 2024.
4. Before the application could be determined, the Respondent(Mary Mwende) filed a Notice of Motion application dated 22nd October, 2024 seeking injunctive orders on the deceased's property known as Kiamumbi/Mun Block 5 (Kiamumbi) 1688 and release of Motor Vehicle No. KBQ 230Q. It was opposed through a Replying Affidavit of Lucy Wangeci sworn on 5th November, 2024. The Applicant has filed written submissions dated 4th November, 2024.



5. The Respondent filed yet another Notice of Motion application dated 28th October, 2024 urging the court to find the Applicant/Respondent to be in contempt of the court orders issued on 23rd October, 2024 and for her to be committed to civil jail for six months. The Applicant has similarly filed her submissions dated 4th November, 2024.
6. When the matter came up for inter parties hearing on 13th November, 2024, the counsel for the parties addressed the court. The Respondent's/ Applicant's counsel has urged the court to allow the application dated 28th October, 2024 as prayed since it is unopposed. The Applicant/Respondent's Counsel then informed the court that he came on record on 5th November, 2024 and has filed a response to the application dated 22nd October, 2024. He went on to submit that he was in the process of filing submissions when he was served with the application dated 28th October, 2024. He has urged the court to address the applications by way of *viva voce* so that there will be a chance for cross examination.
7. In rejoinder, the Respondent's/Applicant's counsel urged the court to grant Prayers Nos. 4, 5, 6 and 7 of the application since his client is living on borrowed clothes and is unable to access her bank account since all her personal documents were taken away by the Applicant/Respondent. He thus prays that the court orders the return of the Applicant's personal property as there was an order for status quo issued by the court.
8. For tidiness in the proceedings, the following Directions are issued in respect to the disposal of the three applications:-
 - a. The Applicant/Respondent (Lucy Wangeci) is hereby granted leave to file and serve response and written submissions in respect to the Notice of Motion application dated 28th October, 2024.
 - b. The Respondent/Applicant (Mary Mwendu) is hereby granted corresponding leave of 14 days to file Further Affidavit if need be.
 - c. The matter shall then be mentioned for Highlighting of submissions in respect of all the three(3) applications dated 18th April, 2024, 22nd October, 2024 and 28th October, 2024 on 17th December, 2024.
 - d. The court declines to issue Prayers Nos. 4, 5, 6 and 7 of the application dated 28th October, 2024 since the Applicant/ Respondent is yet to file a response to the application.

It is so ordered.

**RULING DATED AND SIGNED AT KIAMBU THIS 15TH DAY OF NOVEMBER , 2024.
(UPLOADED VIA ELECTRONIC MAIL)**

**D. O. CHEPKWONY
JUDGE**

