



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KIAMBU**  
**SUCCESSION CAUSE NO. 74 OF 2018**  
**IN THE MATTER OF THE ESTATE OF CHEGE NJEKE, (DECEASED)**

**RULING**

1. **JOSEPH JACK NDUNGU MBURU (Joseph)** of National Identity Card NO. [...] petitioned for grant of Letters of Administration in the estate of **CHEGE NJEKE**, deceased who died on 27<sup>th</sup> April, 2018 (death certificate NO. [...]) by a petition filed in court on 9<sup>th</sup> August, 2018. In support of that petition, Joseph attached a letter from the Chief's office of Passenga location, in Olkaluo. The letter is dated 23<sup>rd</sup> July, 2017. The Chief D.M. Ngugi, of Passenga location confirmed the death of deceased and set out the properties of the estate as:-

**a. L.R. NO. 76/142 (Orig. No. 76/32/121)**

**b. Tinganga/Cianda Block 1/1155**

**c. Tinganga/Cianda Block 1/1157**

**d. Tinganga/ Cianda Block 1/1159**

**e. Tinganga/Cianda Block 1/1161**

2. The said chief by his letter confirmed that the beneficiary of the estate was Joseph.

3. The sureties for Joseph are James Mbugua Kirobi of P.O. Box [...] NAIROBI and Geoffrey Kangethe Ngoima of P.O. Box [...] NAIROBI. In their affidavit the sureties stated the estate of deceased was valued at Kshs.31,250,000/=.

4. A grant was issued to Joseph on 15<sup>th</sup> April, 2019 after the petition was gazetted.

5. Joseph filed summons for confirmation of that grant, dated 3<sup>rd</sup> October, 2019. In the affidavit in support of the summons, Joseph stated that he was the nephew of the deceased and he was the one surviving him. He therefore prayed that all the properties of this estate be distributed/granted to him.

6. When the summons for confirmation came before court on 24<sup>th</sup> November, 2020 I ordered that a letter be brought to court from the Chief of Tinganga, Kiambu where the majority of the deceased's properties are.

7. Joseph filed an affidavit dated 26<sup>th</sup> January, 2021 attaching a Ruling in Milimani Law Courts –Family Division Petition NO. 9 of 2016. By this Ruling, the court adjudged the deceased a person suffering from mental disorder as provided under **Section 26** of the Mental Health Act and appointed Joseph the guardian of the deceased. Joseph, by that affidavit also attached a letter dated 13<sup>th</sup> January, 2021 written by the Chief of Cianda Location, Anthony R. Mbugua. By that letter, the said chief confirmed the properties belonging to this estate, listed above which are in Cianda Location. The chief further stated in that letter:-

***“I therefore recommend Joseph Jack Ndungu Mburu I.D. NO. [...] who is Administrator and beneficiary for further assistance.”***

8. This matter came up before court on 26<sup>th</sup> April, 2021 and it needs to be noted that I made the following comment in the proceedings of that date:-

***“I am concerned that the applicant a nephew says he is the only beneficiary.”***

9. The matter was adjourned because of the above concern. It came up on 22<sup>nd</sup> June, 2021 before court and on my attention being drawn to a further affidavit by Joseph dated 25<sup>th</sup> May, 2021, I reserved my ruling on the summons of confirmation to today's date.

10. I have gone through the aforesaid details because I am still concerned that there is the possibility that Joseph is not entirely candid with this Court when he says he is the only beneficiary of this estate. I find it hard to believe that the deceased did not have any other persons surviving him but only a nephew. Joseph fails to tell this Court whether deceased had brothers or sisters, and whether they are alive. More importantly, he fails to say if the deceased had other nephews or nieces.

11. **Section 71(d)** of the Law of **Succession Act Cap 160** gives this Court the power to postpone confirmation of the grant. I will, because of my concerns, postpone the confirmation of this grant for four months. When this matter will come before court in four months' time, I will require Joseph to inform this Court how he is related to the deceased, that is, whether it is through his father or mother that he is a nephew of the deceased. He will then be required to give full names of his parents and state whether they are alive. Joseph will also be required to confirm under Oath whether there are other beneficiaries of deceased as outlined in **section 39 of Cap 160**. It will assist the court if Joseph prepares a family tree and confirms the relatives who are still alive.

12. If Joseph is unable to convince the court that he is candid in what he says, the court may be reluctant to confirm the grant.

#### **DISPOSITION**

13. in the end, I make the following orders:-

a. The confirmation of the grant is postponed for four months from today's date.

b. **Joseph Jack Ndungu Mburu** shall provide this Court with details of his relationship with the deceased; the full names of his parents and state whether they are alive; and will provide on Oath deceased's family tree and confirm which of the deceased's relatives in that family tree are still alive.

c. The national identity cards of both sureties (photocopies) to be filed into court.

d. At the reading of this Ruling, the court will give a date in four months' time for the court to receive what is set out above.

14. Orders accordingly.

**RULING DATED AND DELIVERED AT KIAMBU THIS 1<sup>ST</sup> DAY OF JULY, 2021.**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant: Ndege

For Joseph Jack Ndungu Mburu: Mr. Maina

**COURT**

Ruling delivered virtually.

**MARY KASANGO**

**JUDGE**