



In re Estate of Louis Gachimbi Nderitu (Deceased) (Succession Cause 37 of 2019) [2021] KEHC 13711 (KLR) (Family) (7 December 2021) (Ruling)

In re Estate of Louis Gachimbi Nderitu (Deceased) [2021] eKLR

Neutral citation: [2021] KEHC 13711 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

FAMILY

SUCCESSION CAUSE 37 OF 2019

AO MUCHELULE, J

DECEMBER 7, 2021

IN THE MATTER OF THE ESTATE OF LOUIS GACHIMBI NDERITU (DECEASED)

BETWEEN

PURITY GACHIMBI NDERITU 1ST APPLICANT

KARIN MUTHONI GACHIMBI 2ND APPLICANT

AND

SHIPHRAH WAIRIMU KABIA RESPONDENT

RULING

1. On 7th October 2020 this court issued a fresh joint grant of letters of administration intestate in respect of the deceased Louis Gachimbi Nderitu to Susan Gacheri Murugu (the deceased's widow) and Karin Muthoni Gachimbi (the deceased's daughter). Previous to this Susan Gacheri Murugu and the deceased's brother Joseph Mwangi Ndiritu had successfully petitioned the High court at Muranga and obtained a grant. The deceased's daughters Purity Gachimbi Nderitu and Karin Muthoni Gachimbi (the applicants) applied for the revocation for the grant on the basis that they had been deliberately and fraudulently excluded from the process leading to the grant. The parties reached a consent to revoke the grant and to have the new one. The deceased had died intestate on 19th January 2012.
2. There was an application dated 13th August 2020 by the deceased's daughters to have the rental income from the development on Plot No. 228 Kasarani-Mwiki to be collected and either paid into court or into a joint account to be operated in the names of the advocates of the parties. Further, that pending the hearing and determination and dispute herein the respondent Shiphrah Wairimu Kabia does give account of the money that had been collected in rents over the premises from the time of the deceased's death to now. Her case was that following ELC No. 475 of 2012 at Nairobi, the court had determined



that the premises formed part of the deceased's estate. The application was heard and on 7th October 2020 the orders were issued.

3. The present application by the applicants was dated 12th October 2021. It sought that the court directs the OCS Mwiki Police Station to facilitate the service of the orders of 7th October 2020 on the respondent; that attempts to serve the extracted orders on the respondent had become impossible owing to the hostile environment in the area. They sought that the process server be provided with security. Otherwise, the advocates had opened the joint account into which the rents should go. It is only when the orders are served that the respondent can be called upon to obey them.
4. I know that ordinarily police have no role to play in the execution of court orders in civil cases, unless the applicant makes sufficient case for their involvement (*George Arab Muli Mwalabu v Senior Resident Magistrate Kangundo & 2 Others* [2019]eKLR). I find that the applicants have made a case for such involvement. I consequently allow the application and direct the OCS Mwiki Police Station to provide security during the service of the extracted orders of 7th October 2020 on the respondent.
5. I make no orders as to costs.

DATED AND DELIVERED AT NAIROBI THIS 7TH DAY OF DECEMBER 2021.

A.O. MUCHELULE

JUDGE

