



**In re Estate of Davey Wainaina Kamau (Deceased) (Succession Cause E077 of 2022) [2025] KEHC 13796 (KLR) (Family) (22 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13796 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE E077 OF 2022  
CJ KENDAGOR, J  
SEPTEMBER 22, 2025  
IN THE MATTER OF THE ESTATE OF DAVEY WAINAINA KAMAU - DECEASED**

**BETWEEN**

**VIRGINIA WANJIRU MBOTE ..... 1<sup>ST</sup> ADMINISTRATOR  
DERRICK KAMAU WAINAINA ..... 2<sup>ND</sup> ADMINISTRATOR  
VINCENT KAMAU WAINAINA ..... 3<sup>RD</sup> ADMINISTRATOR**

**AND**

**JOYCE NYAKIO KAMAU ..... PROTESTOR**

**RULING**

1. The deceased Davey Wainaina Kamau, died on 27<sup>th</sup> November, 2020 and his widow and two sons petitioned this Court for a Grant of Letters of Administration intestate. The grant was made to them jointly on the 16<sup>th</sup> January, 2024.
2. The two administrators, Virginia Wanjiru Mbote and Vincent Kamau Wainaina, thereafter applied for Confirmation of the Grant via an application dated 25<sup>th</sup> November, 2024. They sought the following orders;
  - i. That the grant of Letters of Administration be confirmed.
  - ii. That the beneficiaries do refund to the estate of the deceased the cost of Succession Cause No. HCC 36 of 2010 in the sum of Kshs. 120,000/- and land rates in the sum of Kshs. 52,970/- and Kshs. 32,650/-;
  - iii. That costs be provided for.



3. A protest was lodged by Joyce Nyakio Kamau, the sister of the deceased, through the Affidavit of Protest dated 11<sup>th</sup> March, 2025.
4. There is no other protest received from the other beneficiaries, but notably, the consent to the mode of distribution has not been signed by all the beneficiaries.
5. The parties prepared submissions which I have duly considered.
6. The Administrators argue that the mode of distribution is as agreed upon and additionally contend that the claims in prayer 2 of the application should be allowed, as the sums were incurred by the deceased in the succession case related to the Estate of Wainaina John Kamau (father to Davey Wainaina Kamau, whose estate this succession pertains, and other beneficiaries), which led to the securing of the title documents for some of the properties forming the estate herein. They acknowledge, however, that they did not include this in the application for the making of the grant.
7. The Protestor contends that the deceased (Davey) disenfranchised them from their late father's estate and the Administrators of his estate are trying to remedy the injustice by including her and other siblings in the list of beneficiaries.
8. She argues that the claimed sums, if they were incurred at all, resulted from fraudulent acquisition by their brother Late Davey. She describes the demand for that money as unjust.
9. The issue for determination is whether the Court should go ahead with including the claim in prayer two and, further, whether it should confirm the grant.
10. I will start with the latter. I have noted that there is no other Protest lodged on the mode of distribution. It is not clear from Joyce's Protest whether she is opposed to the mode of distribution; instead, she seems to suggest that other outstanding issues need to be addressed before the Grant can be confirmed.
11. As the consent on the mode of distribution has not been signed by all parties, this Court will invite all beneficiaries to attend Court so that an oral hearing/confirmation can be done in the presence of all beneficiaries. A Confirmation of the Grant hearing is to allow the parties to verify that the proposed schedule is correct.
12. From what I get from the Protest by Joyce, there is a complaint as to how some of the properties were vested in the name of the deceased Davey. However, there are no proceedings annexed to show that the issue has been taken up in the originating proceedings referred to for the succession cause of their father, Wainaina John Kamau. Neither is there any stay order sought.
13. While the history and chronological events of the matter are indeed important in succession cases, it is inappropriate to litigate over another estate within another estate when the issues can be taken up within the respective estate. It clouds issues if this is allowed, and risks abuse of the Court process.
14. The information about the claim in prayer 2 is evidently information that was within the knowledge of the administrators at the time of the application for the making of the grant. The amounts were not disclosed as owing to the estate. Similarly, there was no application to amend the application for the making of the grant to include the amounts as debts/claims owed to the estate.
15. Furthermore, no proof has been tendered of these amounts claimed to have been paid or expended, so there is no basis at all presented to have them even considered at this stage. The claim may not even rest in this cause.



16. It is in the interest of justice that succession cases are heard and decided promptly. The delay in resolving succession cases leads to further discord, as seen in the present case, and so parties are encouraged to take necessary steps towards bringing the matter to a close.
17. I make the following determination regarding the application dated 25<sup>th</sup> November, 2024:
  - i. The matter to be scheduled for a confirmation hearing, where all beneficiaries are to attend, to verify if the proposed mode of distribution is correct or not, and for further directions.
  - ii. Prayer 2 is struck out;
  - iii. Each party to bear own costs.
18. Orders accordingly.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 22<sup>ND</sup> DAY OF SEPTEMBER, 2025.**

.....

**C. KENDAGOR**

**JUDGE**

In the presence of:

Court Assistant: Beryl

Mrs. Maira, Advocate for the Administrators

Mr. Muchai, Advocate for the Objector

