



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**SUCCESSION CAUSE NO. E2167 OF 2021**  
**IN THE MATTER OF THE ESTATE OF THE LATE KYALE**  
**MWENDWA (DECEASED)**

**RULING**

1. When this matter came up for hearing on 21<sup>st</sup> October, 2025 in open court and in the presence of all the parties and their counsel, the court engaged them on an off-record discussion concerning the entire administration of the estate and in particular the thorny issue of executors.
2. It was common knowledge that two executors had since passed on and the only remaining executor was Sammy Muvelah.
3. The beneficiaries in particular were of the view that before the issue of the grant being confirmed, which was actually the matter at hand, they will be comfortable if other executors were added. They proposed that the remaining widow and two more beneficiaries be added.
4. The executor on his part and by extension his counsel argued that he ought to be granted a chance to complete the process as per the Will as there was a risk of the beneficiaries and himself not working harmoniously.

5. After a long discussion it was resolved by consent that the application dated 24<sup>th</sup> September 2024 be dealt with and the court deliver its ruling as it will sort out the question of adding or not extra executors.
6. The application dated 24<sup>th</sup> September 2024 by Jecinta Wangove Mwendwa the surviving widow prays among others that she be appointed in place of the late Francis Kasina and that a grant be issued in her favour together with Sammy Muvelah.
7. Her application is supported by her sworn affidavit of 23<sup>rd</sup> September 2024 which reiterates the fact that two of the executors had since passed on and that it will be in the interest of the estate to bring in more administrators into the estate.
8. The executor Sammy Muvelah in his replying affidavit sworn on 28<sup>th</sup> November, 2024 opposed the application on the grounds that what the Applicant was doing was rewriting the deceased Will which was not acceptable and that the Act does not provide for an additional executors' once the rest are no longer available.
9. He further argued that the interest of the minor had since been settled by the various clauses and provisions in the Will.
10. Senior Counsel Philip Murgor acting for Professor Suki Mwendwa orally supported the appointment of extra executors of the estate.

11. Mumo Ikui Mwendwa, Vonza Kavila Mwendwa and Nzambu Mulaimu Mwendwa and represented by Dr. Khaminwa vide their undated affidavit agreed with the prayers to have an extra executor to the Will.
12. Having heard the parties orally and the history of this matter I find that the remaining executor may have had great difficulty in carrying out the management of the estate due to various vested interest from the beneficiaries among others.
13. The plethora of applications and counter applications say as much. There is so much information which I concluded is held by the beneficiaries and in my view, there is no point of the executor running the affairs alone noting that two of his colleagues have since passed on without completing the job left to them by the deceased.
14. The best approach is to allow some of the family members including the widow to participate in this penultimate part of the process.
15. Essentially the only remaining work is confirmation of the grant which none of the parties has any objection to as it is in line with the Will. The other task is execution of the confirmed grant including the provisions of the minors as directed in the Will.
16. Barring all legal jargons and technicalities which if the court was to consider will hamper the quick and smooth finalization of this matter, I hold that three more parties shall be added as executors of the deceased's Will. In case

of any disagreement the courts will always be open to hear and adjudicate over the same.

17. At any rate it was in the interest of the deceased that the beneficiaries enjoy the fruits of his labour and more importantly it is in the interest of justice that such expansive estates are quickly and expeditiously dealt with without due regard to many procedural technicalities. I think and know that that was the spirit of the framers of Article 159 of our Constitution.
18. Moreover, and from the issues raised during the off-record discussion and some details contained in the various rival affidavits and more specifically by the executor, it appears to me that the beneficiaries have more information than the executor regarding the estate herein. Bringing them on board shall make the finalization of the process quick and faster.
19. **For now, I order and direct that:-**
  - (a) **Jecinta Wangove Mwendwa, Mumo Ikui Mwendwa and Professor Suki Kaloo Mwendwa shall be joined executors together with Sammy Muvelah.**
  - (b) **The grant of letters of administration with written Will made to Sammy Muvelah on 14<sup>th</sup> March 2022 is hereby confirmed as per the application dated 31<sup>st</sup> January 2023.**
  - (c) **The above joint executors are hereby directed to execute this confirmed grant within 60 days from the date herein and report to the court.**

**(d) This matter shall be mentioned on 27<sup>th</sup> January 2026 to confirm compliance.**

**(e) Costs shall be in the cause.**

**Dated signed and delivered via video link at Nairobi  
this 22<sup>nd</sup> day of October 2025.**

**H K CHEMITEI  
JUDGE**