



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**SUCCESSION CAUSE NO. 704 OF 2019**  
**IN THE MATTER OF THE ESTATE OF THE LATE JAMES**  
**KASYULA MUTUA (DECEASED)**

**MOSES WAMBUA MUTUA ..... 4<sup>TH</sup>**  
**OBJECTOR**

**ESTATE OF RUTH MUTUA THROUGH**

**SERAH NZEMBI NZYIKI &**

**JOHN KIOKO MUTUA ..... 5<sup>TH</sup>**  
**OBJECTORS**

**VERSES**

**JESSE KASYULA ..... BENEFICIARY/1<sup>ST</sup>**  
**RESPONDENT**

**AND**

**JOHN KIOKO MUTUA ..... 1<sup>ST</sup>**  
**ADMINISTRATOR**

**SARAH NZEMBI NZYIOKA ..... 2<sup>ND</sup>**  
**ADMINISTRATOR**

**AND**

**SAMUEL KABUE ..... 1<sup>ST</sup>**  
**APPLICANT**

**JASON MBUGUA MUTUA ..... 2<sup>ND</sup>**  
**APPLICANT**

**RUBY MWIKALI MUTUKU ..... 3<sup>RD</sup>**  
**APPLICANT**

**DIRECTIONS**

1. There are three sets of application herein. The first application dated **7<sup>th</sup> April 2025** is by **Serah Nzembi Nzyoka** and **John Kioko Mutua** against Jesse Kasyula.
2. They are praying for orders that:
  - (a) **Pending the hearing and determination of this application there be stay of sale of their properties which were scheduled to be sold on 10<sup>th</sup> April 2025.**
3. The second application dated **23<sup>rd</sup> April 2025** by Moses Wambua Mutua and Serah Nzembi Nzyoka and John Kioko Mutua against Jesse Kasyula seeks orders:**(a) That Joel Titus Musya t/a Makuri auctioneers does forthwith (and no more than 3 days of service of the order of the court) return in good working condition motor vehicle registration number KCC 836 and KRT 879 to the 4<sup>th</sup> and 5<sup>th</sup> Objectors.**
  - (b) **That Joel Titus Musya and Koome Murithi be held personally responsible for the wanton and reckless abuse of the orders of the court comprised in the warrants of attachment and sale dated 1<sup>st</sup> April 2025 and be punished by way of a fine and committal to civil jail in such amounts and for such terms as the court may determine.**

- (c) That all orders and proceedings obtained conducted by and involving Koome Murithi advocate in the years 2023 and 2025 be expunged from the record of the court and be declared null and void on account of having been obtained by an unqualified person not licensed to practice law.**
- (d) That the warrants of attachment and sale issued to Makuri auctioneers or to any other person acting as an auctioneer of the court for the attachment and sale of the property comprised in the estate of James Kasyula Mutua in purported execution against the Administrators of the estate or for the recovery of the 1<sup>st</sup> Respondent's entitlement under the grant issued herein be recalled, revoked and set aside.**

4. On the other hand the application dated **28<sup>th</sup> April 2025** by Samuel Kabue and three others seeks orders that:

- (a) The Administrators herein be ordered to give full account on handling of all assets of the estate herein from the date of issue of the confirmation of grant being 5<sup>th</sup> February 2020 to date.**
- (b) The Administrators in this cause be stopped from selling any assets of the estate herein until proper accounts are presented and the Applicants share is properly ascertained.**

5. I have enumerated all these applications for the simple reasons that the court cannot be used to sanitize the work of the Administrators. The grant issued by Muchelule J (as he was) on 5<sup>th</sup> February 2020 has largely remained unexecuted.
6. As a result of this inaction on the part of the administrator's myriad of applications have inundated this court by generally all the parties. It is not the business of the court to deal with applications upon applications in one single file.
7. It is possible that the parties don't see eye to eye but that is not a reason for the estate to remain ungovernable almost five years later.
8. Without prejudice to all the pending applications I think the court must exercise its authority and demand accountability from the Administrators whom it gave permission to manage the estate on behalf of all the beneficiaries including the estates of those who are deceased.
9. In my ruling of 3<sup>rd</sup> October 2024, I directed the Administrators to release a sum of Kshs. Five million to Jesse Kasyula Mutua, within 14 days. They failed to honour this rendering him to seek attachment of some of the properties which are now in contest.
10. Whether the properties belong to the estate or not is a subject of contest.

11. At the same time, I directed that the Respondent (Administrator) should within 90 days from the date therein execute the grant mentioned above. To date and in the absence of any order barring such execution the Administrators have failed to honor the same.
12. This court cannot therefore as stated earlier be an avenue of applications upon applications. Litigation in one way or another must come to an end. The Administrators must deal with the estate once and for all. If they are unable to then there are other competent parties who can apply.
13. **I therefore direct as hereunder:**
  - (a) The Administrator within 45 days from the date herein must execute the grant issued on 5<sup>th</sup> February 2020 and in default any other beneficiary is at liberty to apply.**
  - (b) There be stay of sale by way of public auction any of the estate properties pending the execution of (a) above.**
  - (c) The motor vehicles registration numbers KCC 836N and KRT 879 respectively be returned unconditionally by the auctioneers to the owners on a running attachment pending fulfillment of prayers (a) above.**
  - (d) No other application shall be filed by any of the parties herein without the leave of the court.**
  - (e) All the pending applications above or any other in this cause are held in abeyance pending execution of (a) above.**

**(f) The matter be mentioned before the Deputy Registrar of this court within 30 days to confirm compliance.**

**(g) Costs in the cause.**

**Dated signed and delivered via video link this  
16<sup>th</sup> day of October 2025.**

**H K CHEMITEI  
JUDGE**