



REPUBLIC OF KENYA



**In re Estate of Njogu Njoroge (Deceased) (Succession Cause E255 of 2022)
[2025] KEHC 14492 (KLR) (Family) (16 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14492 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

SUCCESSION CAUSE E255 OF 2022

HK CHEMITEI, J

OCTOBER 16, 2025

IN THE MATTER THE ESTATE OF NJOGU NJOROGE (DECEASED)

BETWEEN

GRACE WAIRIMU NYAGA 1ST APPLICANT

PURITY WANGARI MACHARIA 2ND APPLICANT

BEATRICE WAMBUI MACHARIA 3RD APPLICANT

MARGARET NYOKABI NJOGU 4TH APPLICANT

AND

RUTH NGENDO NJOGU 1ST RESPONDENT

JECINTA WAIRIMU ISSACK 2ND RESPONDENT

RULING

1. This ruling relates to the application dated 31st May, 2023 filed by the Applicants, Grace Wairimu Nyaga, Purity Wangari Macharia, Beatrice Wambui Macharia and Margaret Nyokabi Njogu, seeking for orders that:
 1. The grant of letters of administration made on 16th May, 2022 be revoked or annulled.
 2. The confirmation of grant made on 30th November, 2022 be set aside.
 3. Costs of this application be provided for.
2. The application is based on the grounds thereof and supported by affidavits sworn by Grace Wairimu Nyaga, Purity Wangari Macharia, Beatrice Wambui Macharia and Margaret Nyokabi Njogu on 31st May, 2023.



3. They aver inter alia that the deceased passed away on 12th May, 2021 and a grant of letters of administration intestate was issued to Ruth Ngendo Njogu, Jecinta Wairimu Issack and Margaret Nyokabi Njogu on 16th May, 2022.
4. The deceased was survived by the following family members: First House: Teresia Wangari Ndungu (wife, deceased), Peter Ndungu Njogu (son, deceased) – left behind: Geoffrey Njogu Ndungu, Josephat Waithaka Ndungu, Teresia Wangari Ndungu, Mary Wanjiru Ndungu, Grace Wairimu Nyaga (daughter), David Njuguna Njogu (son), Joseph Njoroge Njogu (son, deceased) – left behind: Purity Wangari Macharia, Beatrice Wambui Macharia, Margaret Nyokabi Njogu (daughter), Lucy Watiri Njogu (daughter, deceased) – left behind: Faith Wangari Watiri, Salome Wacera Njogu (daughter). Second House: Peris Wambui (wife, deceased) and Jecinta Wairimu Isaack (daughter). Third House: Ruth Ngendo Njogu (wife, deceased), Joseph Njuguna Njogu (son), Simon Mwarari Njogu (son), Nelly Watiri Njogu (daughter), John Kabaiku Njogu (son) and Dancan Gaithuma Njogu (son).
5. They deponed that under succession law, a grant of letters of administration shall not be issued to an applicant without notice to all persons of equal or prior entitlement. Where an applicant's entitlement is of equal or lower degree, the application must be supported by written consents or renunciations from all those entitled, or by such evidence as the court may direct.
6. It is therefore mandatory that every person seeking appointment as administrator notifies all persons of equal or higher priority and secures their consent or renunciation prior to filing the succession cause. Non-compliance with legal requirements from the consent to the appointment of administrators dated 21st January, 2022, and the undated consent to the making of the grant, it is evident that Grace Wairimu did not sign the documents.
7. Further, the consents of the following beneficiaries were neither sought nor obtained: The widow and children of Peter Ndungu Njogu (deceased): Jane Njeri Ndungu, Geoffrey Njogu Ndungu, Josephat Waithaka Ndungu, Teresia Wangari Ndungu, and Mary Wanjiru Ndungu. The children of Joseph Njoroge Njogu (deceased): Purity Wangari Macharia and Beatrice Wambui Macharia. The child of Lucy Waitiri Njogu (deceased): Faith Wangari Waitiri.
8. They deponed that where a parent predeceases a grandparent, the grandchildren step into the shoes of the deceased parent and inherit that parent's share of the grandparent's estate. Accordingly, the families of Peter Ndungu Njogu, Joseph Njoroge Njogu and Lucy Waitiri Njogu rank equally with the Respondents and other beneficiaries and should have consented to the appointment of administrators. Their exclusion amounts to concealment.
9. They accused the Respondents of failing to disclose several properties belonging to the deceased, including: Motor vehicles: KAY 775E, KCB 646U and KUD, L.R. Nos. 6845/478, 6845/479 and 6845/480, shared plots in Mutirithia Wa Andu Company Limited.
10. Although administrators were selected from each of the deceased's three families - Ruth Ngendo Njogu (3rd house), Jecinta Wairimu Issack (2nd house) and Margaret Nyokabi Njogu (1st house) - the affidavit in support of summons for confirmation of grant was signed only by Ruth Ngendo and Jecinta Wairimu, to the exclusion of Margaret Nyokabi.
11. From the consent to the distribution of the estate dated 28th November, 2022, it is further evident that Grace Wairimu Nyaga did not sign and was not involved in the distribution. Purity Wangari Macharia and Beatrice Wambui Macharia (children of Joseph Njoroge, deceased) were listed as dependants but did not sign or participate. Salome Njogu signed where Beatrice Wambui was meant to sign. The



distribution was thus conducted without the participation or consent of key beneficiaries, rendering it inequitable, unfair, and biased in favour of the second house.

12. They deponed further that before his death, the deceased had allocated property to each family as follows: 1st house - Nairobi Block 119/3745 (shops & residential units) and Murang'a/Ithanga Phase II/587 (the deceased's first wife and three children are buried here); 2nd house - Nairobi Block 119/1114 (residential & rental units) and Murang'a/Ithanga Phase II/589 (the deceased's second wife buried here); and 3rd house - Nairobi Block 119/3738 (residential & rental units) and Murang'a/Ithanga Phase II/586.
13. Additionally, Murang'a/Ithanga Phase II/588 contains the homestead of the first house, while Nairobi Block 144/1126 was to be shared equally between the second and third houses.
14. Further the certificate of confirmation of grant dated 30th November, 2022 disrupted these lifetime settlements and redistributed the estate contrary to the deceased's arrangements. It is therefore clear that the proceedings leading to the grant and its confirmation were defective in substance, the grant and its confirmation were obtained fraudulently through false statements and concealment of material facts and the confirmation relied on untrue allegations of fact and law to justify the distribution.
15. Although the grant has been confirmed they deponed, the estate remains undistributed. The applicants, being the daughter and granddaughters of the deceased, are entitled to apply for letters of administration in equality with, or in priority to, the current Respondents.
16. Beatrice avers that although she is a beneficiary of the deceased's estate by virtue of being the daughter of the late Joseph Njoroge Njogu, who was a son of the deceased, she was neither invited to nor involved in the family meeting convened on 14th August, 2021. The Respondents' assertion that all beneficiaries participated in and consented to the appointment of administrators and the proposed distribution of the estate is factually incorrect.
17. She stated that while Grace attended the said meeting, she did not agree with several of the resolutions, including the fact that Ruth Ngendo Njogu was the sole person remaining to handle the succession process; The deceased's property known as Mwafrika Building had already been divided and shared prior to the deceased's death as reflected in the minutes; The plots in Utawala belonged solely to Ruth Ngendo Njogu; and the proposed mode of distribution of the deceased's estate as recorded in the minutes.
18. Consequently, she did not consent to the appointment of administrators, the making of the grant of administration intestate, or the distribution of the deceased's estate as reflected in the aforementioned documents.
19. The application is opposed vide replying affidavit sworn by Ruth Ngendo Njogu and Jecinta Wairimu Isaack on 10th November, 2023.
20. They aver inter alia that the appointment of the administrators was carried out procedurally, lawfully and in accordance with the law after a family meeting was convened for this purpose, during which minutes were duly recorded, reflecting the collective agreement of all members on the selection of the administrators.
21. They deponed that Paragraph 4 of the Applicants' supporting affidavit contradicts paragraph 8, which acknowledges that the appointment of administrators was confirmed by the court and that no objection was raised by the applicants despite the Kenya Gazette notice having been published for the statutory 30-day period. The court record clearly demonstrates that no objection was ever filed against the grant or the proposed distribution by any beneficiary.



22. Further, no beneficiary opposed the consent to the distribution of the estate. The child of the late Joseph Njoroge Njogu, namely Purity Wangari Macharia, was duly allocated a share of the deceased's estate in the confirmed grant, to be shared equally with her sister Beatrice Wambui Macharia.
23. Similarly, the family of Lucy Watiri Njogu was recognized, and her daughter Faith Wangari Watiri was allocated a share. Margaret Nyokabi Njogu, who represents the first family, participated fully in the process.
24. Regarding the alleged undisclosed assets, motor vehicle KAY 775E is registered in the joint names of Ruth Ngendo Njogu and Njogu Njoroge, and no logbook has ever been surrendered to the estate. Motor vehicle KCB 646U is registered in the name of Lewis Njau Nguhi, not the deceased. The listed motor vehicle KUD remains indeterminate, making ownership unclear.
25. Likewise, the parcels of land cited are not referenced in the affidavit in support of confirmation of grant dated 21st November, 2022, and no evidence has been provided to prove that they form part of the deceased's estate.
26. Similarly, no documentation has been exhibited to prove the deceased owned shares or plots in Mutirithia wa Andu Company Limited.
27. The consent to the distribution of the estate was unanimously agreed upon following a family meeting held at Homeland Inn Restaurant, Thika Road, where all beneficiaries jointly endorsed the confirmation of the grant.
28. It is therefore they deponed misleading and an abuse of the court process for the Objectors, who previously acknowledged the agreed appointment of administrators by each house, to now challenge the process.
29. Although the objector did not personally sign the consent, the trial court called out the names of all beneficiaries during the confirmation hearing, and affirmative responses were recorded, confirming no objections. The court therefore properly confirmed the grant as unchallenged and acceptable.
30. Moreover, an affidavit of service was filed by the Respondents confirming that the Objectors had been duly served with a hearing notice prior to the confirmation proceedings.
31. That the distribution of the estate was conducted fairly and equitably, with all beneficiaries, including the Objectors, receiving their rightful shares under the confirmed grant.
32. After several consultations, the Respondents voluntarily agreed to allocate L.R. No. Murang'a/Ithanga Phase II/587, which served as a common home for all families, to the first family.
33. The property known as Nairobi Block 119/3745 was allocated wholly to the first family, while recognizing that the third family, through the third wife, owns ten rooms on the second floor of the said building. She has continuously rented out these rooms from 1999 to 2024, without any objection from the first family - a fact that was duly captured in the confirmed grant. The only issue in contention before this Honourable Court relates to the two properties mentioned above, as the remainder of the estate has been rightfully distributed in accordance with the deceased's wishes and family consensus.
34. There is no evidence on record to suggest that the grant or confirmation was obtained fraudulently, through falsification or concealment of any material facts. The grant and confirmation were obtained lawfully, and the applicants' allegations are baseless and unfounded.



35. She deponed further that the estate has not been fully distributed because the third administrator has refused to sign the necessary transfer and completion documents, despite repeated requests and formal communication from the administrators' advocate.
36. The Objector's actions therefore amount to an attempt to delay the conclusion of the succession cause and abuse the court process. Having previously accepted Margaret Nyokabi Njogu as the representative of the first family and having raised no prior objection, the current challenge is an afterthought.
37. The Respondents thus pray that the grant issued on 30th November, 2022 be upheld, and that the court rectify it only to the extent necessary to facilitate distribution of the first family's share, ensuring that any left-out beneficiaries are included. It is further prayed that Nairobi Block 119/3745 continue to be jointly held by the first and third families, with the third family retaining ownership of the ten rooms on the said building.
38. The Applicants have filed written submissions dated 19th June, 2025.
39. The Respondents have filed written submissions dated 22nd April, 2025.

Analysis And Determination

40. I have read the application before this court, the responses thereto and the rival submissions; and for want of time the court shall not reproduce the same save to state that they gravitate around the rival affidavits
41. The issues for determination as crafted by the Respondents are as follows:
 - a. Whether or not the grant of letters of administration were issued lawfully and procedurally?
 - b. Whether or not the confirmed certificate of confirmation of grant was issued properly?
 - c. Whether or not the beneficiaries were/have been catered for appropriately and justly?
42. In re Estate of Harjit Singh Brah alias Harjit Singh Nihal (Deceased) (Succession Cause 3 of 2019) [2023] KEHC 25531 (KLR) (20 November 2023) (Ruling), the court stated as follows:
 - “ 21. Revocation of grant is provided for under section 76 of the *Law of Succession Act*. The grounds upon which the grant may be revoked are well provided therein. The said section provides that revocation can either be at the instance of an applicant or can be by the court suo moto. However, it is a prerequisite that the conditions for revocation as set out under section 76 must be proved. In the case of *Jamleck Maina Njoroge v Mary Wanjiru Mwangi* [2015] eKLR, the court discussed circumstances when a grant can be revoked. The court observed that:“11.The circumstances that can lead to the revocation of grant have been set out in section 76 Law of Succession. For a grant to be revoked either on the Application of an interested party or on the court's own motion there must be evidence that the proceedings to obtain the grant were defective in substance, or that the grant was obtained fraudulently by making of false statement, or by concealment of something material to the case, or that the grant was obtained by means of untrue allegations of facts essential in point of law.”
 22. The power to revoke a grant is a discretionary power that must be exercised judiciously and only on sound grounds. It is not discretion to be exercised



whimsically or capriciously. There must be evidence of wrong doing for the court to invoke section 76 of the Law of Succession Act and order for revocation of or annulment of a grant. Besides, when a court is called upon to exercise this discretion, it must take into account interests of all beneficiaries entitled to the deceased's estate and ensure that the action taken will be for the interest of justice. Generally, the trial court has jurisdiction to revoke a grant if the conditions under section 76 are satisfied.

23. For avoidance of doubt, section 76 of the Law of Succession Act provides as follows: “76. Revocation or annulment of grant. A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any Interested Party or of its own motion— (a) that the proceedings to obtain the grant were defective in substance; (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case; (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently; (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either— (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or (ii) to proceed diligently with the administration of the estate; or (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or (e) that the grant has become useless and inoperative through subsequent circumstances [Emphasis mine].”
24. The above section 76 was interpreted In re Estate of Prisca Ong'ayo Nande (Deceased) [2020] eKLR where it was stated that: “Under section 76, a court may revoke a grant so long as the grounds listed above are disclosed, either on its own motion or on the application of a party. A grant of letters of administration may be revoked on three general grounds. The first is where the process of obtaining the grant was attended by problems. The first would be where the process was defective, either because some mandatory procedural step was omitted, or the persons applying for representation was not competent or suitable for appointment, or the deceased died testate having made a valid will and then a grant or letters of administration intestate was made instead of a grant of probate, or vice versa. It could also be that the process was marred by fraud and misrepresentation or concealment of matter, such as where some survivors are not disclosed or the Applicant lies that he is a survivor when he is not, among other reasons. The second general ground is where the grant was obtained procedurally, but the administrator, thereafter, got into problems with the exercise of administration, such as where he fails to apply for confirmation of grant within the time allowed, or he fails to proceed diligently with administration, or fails to render accounts as and when required. The third general ground is where the grant has become useless and inoperative following subsequent circumstances, such as where a sole administrator dies leaving behind no administrator to carry on the exercise [Emphasis mine], or



where the sole administrator loses the soundness of his mind for whatever reason or even becomes physically infirm to an extent of being unable to carry out his duties as administrator, or the sole administrator is adjudged bankrupt and, therefore, becomes unqualified to hold any office of trust.”

43. In view of the above long cited authorities can one claim that the grant issued to the Respondents failed the provisions of Section 76 of the Act?
44. It is evident that the deceased left behind three houses. All of them have been mentioned in the pleadings here including the Applicants. Being a large family, it appears that they had a meeting prior to filing this cause and agreed on raft of issues including who were to be Administrators. The current Administrators were unanimously endorsed by majority of the beneficiaries.
45. It is not therefore entirely true that the applicants were not in the picture.
46. At the same time, they represented the three houses including those of the applicants. Of course, theirs was purely administration and not inheriting the estate. They were simply collecting and managing the estate. The three representatives were therefore sufficient at least from each house.
47. Further the grant was duly gazetted and there was no objection against the grant issued to the three administrators by the applicants or at all.
48. As regards the confirmation it appears that when the matter was called out on 30th November 2022 all the parties were present and the applicants have not counteracted the fact that they were all served. I can also see from the record that the 4th Applicant was present in court physically or at least online. The affidavit of service on record states as much.
49. To argue therefore that they did not participate in the entire proceedings is not entirely true. It was their business to notify the court during the confirmation of the grant of their objection. The court did not record any.
50. In any event they have each been factored in the distribution of the estate and they cannot claim any unfairness or concealment of material facts by the Respondents.
51. By and large therefore I find do not find merit in the application for the simple reason that though there may not be equality in the distribution according to the applicants wishes, the three houses have set out how to distribute the entire estate. The court agreed with them.
52. The fact that one of them failed to sign the consent on the mode of distribution does not necessarily void the grant. Situations are known where large families like the case at hand encounters circumstances where some beneficiaries deliberately fail to sign just to delay the entire estate and punish the larger majority. In such a case the court will not countenance.
53. It is worthy to note that none of the parties have been left out including the Applicants in the entire distribution of the estate. Even those deceased have been provided for under an arrangement where their heirs inherit on their behalf. If there are any properties left behind or not disclosed the grant can always be rectified.
54. In the premises I do not find merit in the application and the same us hereby dismissed with no order as to costs.

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAIROBI THIS 16TH DAY OF OCTOBER 2025.

H K CHEMITEI



JUDGE

