



**In re Estate of Weru Joseph (Deceased) (Succession Cause 485 of 2018)
[2025] KEHC 14642 (KLR) (Family) (16 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14642 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 485 OF 2018
HK CHEMITEI, J
OCTOBER 16, 2025
IN THE MATTER THE ESTATE OF WERU JOSEPH (DECEASED)**

BETWEEN

JERITH NJERI WERU APPLICANT

AND

FLORENCE NYAWIRA WERU RESPONDENT

RULING

1. This ruling relates to the applications dated 18th December, 2023 and 2nd October, 2024.
2. The application dated 18th December, 2023, filed by the Applicant, Jerith Njeri Weru, seeking for orders that:
 1. The Deputy Registrar of this honourable court do appoint a registered real estate agent to collect the rental proceeds from the properties comprising the estate of the deceased and any other proceeds or income that may be realized from the properties comprising the estate of the deceased by the appointed agent.
 2. The appointed agent be authorized to collect the rental income from the estate properties without interference by the beneficiaries or administrators herein and their fees to be paid out of the rental income collected.
 3. A joint account be opened in the name of the administrators at an Equity Bank Kenya Branch.
 4. The court be pleased to issue any other or further order to facilitate true and transparent/ accurate account of the rental proceeds from the estate properties herein.
 5. Costs of this application be in the cause.



3. The application is based on the grounds thereof and supported by affidavit sworn by Jerith Njeri Weru on 18th December, 2023 and 19th February, 2024.
4. She avers inter alia that pursuant to this Honourable Court's directions issued on 13th October, 2023, the parties were ordered to:

“File, within forty-five (45) days, a comprehensive and accurate account of all dealings with the estate properties from 30th October, 2019 to date; b. Appoint, within forty-five (45) days, a registered estate agent to collect and receive all rental income derived from the deceased's estate pending confirmation of the grant; c. In the event of disagreement between the administrators on the choice of agent, the Hon. Deputy Registrar of the Family Division would appoint a registered real estate agent to collect the rental proceeds; and d. Open a joint account in the names of the two administrators within fourteen (14) days.”
5. In compliance with these directions, her advocates wrote to the advocates for Florence Nyawira Kabiru, proposing the name of the real estate firm they wished to engage to collect the rental proceeds. However, Florence's advocates have been slow to act and have indicated that they do not object to the Hon. Deputy Registrar of the Family Division appointing an estate agent to undertake this task. She confirms that she concurs with this position and is amenable to the Hon. Deputy Registrar appointing a registered real estate agent to collect rental proceeds from the estate properties on behalf of both administrators.
6. She in particular proposed Abec Real Limited as the preferred firm to act as the estate's registered agents. The proposed agents shall collect rental income from the following properties: Ex-Kibagare/Soweto Scheme Plot No. 70E, Plot No. D-9 Kayole Riverside South, Plot No. 63E Kayole Riverside South, Plot No. D-212 Kayole, Plot No. E2 on L.R. No. 11344 Kayole and Plot No. G12/1 on L.R. No. 11344 Kayole.
7. She further proposes that the administrators open a joint account at Equity Bank for purposes of depositing the rental proceeds collected from the said properties.
8. Accordingly, she prays that this Honourable Court compels Florence to comply fully with the orders issued on 13th October, 2023, without further delay.
9. This court, in its judgment delivered by Hon. Lady Justice Odero on 13th October, 2023, directed the administrators to file within forty-five (45) days a full and accurate account of all dealings in the estate properties from 30th October, 2019. Although she purchased motor vehicle registration number KCA 279B from her father during his lifetime, and the question of its ownership remains pending before this court, she recognizes her duty to account for her dealings with the said asset. She has therefore prepared and produced an account of transactions relating to motor vehicle KCA 279B in compliance with the court's directions.
10. She further prays that this court direct Florence to produce: a complete inventory of the estate assets; a full account of income, payments, and expenses relating to the estate since the deceased's death; and a detailed record of all dealings and transactions concerning the estate, in accordance with the court's judgment delivered on 13th October, 2023.
11. The application is opposed vide replying affidavit sworn by Florence Nyawira Weru on 30th May, 2024.
12. She avers inter alia that there is nothing substantial left to manage within the estate, as several of the alleged parcels and plots either no longer exist or were recently demolished by the county and national governments during the heavy rains. Furthermore, all estate motor vehicles have either been disposed



- off or rendered unserviceable due to inaction by Jerith Njeri Weru in civil proceedings that arose during their use.
13. That despite being co-administrators, Jerith has declined to cooperate or engage in discussions with her mother regarding the administration of the estate. The question of whether there is any meaningful rental income can easily be verified by visiting the premises and conducting an inspection, especially since Jerith resides in Nairobi while her mother is based in Mombasa, where she works.
 14. The orders sought are impracticable, and it would be in the best interest of justice for the parties to resolve the matter through mediation or arbitration.
 15. She went on to depone that the estate's motor vehicles have continued to deteriorate due to Jerith's failure to account for or follow up with insurance matters, resulting in some being sold and others facing imminent sale.
 16. Both parties have not filed written submissions with respect to the application dated 18th December, 2023.
 17. The application dated 2nd October, 2024 filed by the Applicant, Jerith Njeri Weru, seeks for orders that:
 1. Pending the hearing and determination of the application dated 18th December, 2023 by the applicant for appointment of an estate agent, the rental proceeds from the properties comprising the estate of the deceased be deposited in court.
 2. The 2nd administrator be ordered to deposit the rent collected from November, 2023 till present in court pending the appointment of an estate agent in accordance with the ruling of this court dated 13th October, 2023.
 3. The rent for the following properties be deposited in court:
 - a. Ex Kibagare/ Soweto Scheme Plot No. 70E.
 - b. Plot No. D – 9 Kayole Riverside South.
 - c. Plot No. 63E Kayole Riverside South.
 - d. Plot No. D – 4 – 212 Kayole.
 - e. Plot NO. E2 on L. R. No. 11344/ R Kayole.
 - f. Plot No. G12/ 1 on L. R. No. 11344/ R Kayole.
 4. The respondent be held personally in contempt of court for failing to file her accounts and collecting rent in her personal capacity which is in contravention of the orders given by this honourable court.
 5. Costs of this application be in the cause.
 18. The application is based on the grounds on its face thereof and supported by affidavit sworn by Jerith Njeri Weru on 2nd October, 2024.
 19. She avers inter alia that that pursuant to the directions issued by this Honourable Court on 13th October, 2023, the parties were ordered as follows:
 - a. to file within forty-five (45) days a comprehensive and accurate account of all dealings relating to the estate properties from 30th October, 2019 to date;
 - b. to appoint, within forty-five (45) days, a registered estate agent to collect



and receive all rental income generated from the estate properties pending confirmation of the grant; c. that in the event of any disagreement between the administrators on the choice of estate agent, the Hon. Deputy Registrar of the Family Division would appoint a registered real estate agent to collect the rental proceeds; and d. to open a joint account in the names of both administrators within fourteen (14) days for the purpose of depositing all rental income.”

20. In compliance with these directions, she filed accounts relating to motor vehicle KCA 279B on 19th February, 2024 and also filed an application dated 18th December, 2023 seeking the appointment of a registered estate agent. Her advocates subsequently wrote to the advocates for Florence Nyawira Kabiru, proposing both the name of the estate agency to be appointed and the bank where a joint account was to be opened in accordance with the court orders. The matter was first mentioned before the Hon. Deputy Registrar of the Family Division on 14th December, 2023, when Florence’s advocates failed to appear. It was mentioned again on 19th February, 2024, when they confirmed receipt of the application for appointment of the estate agent and the filed accounts, and sought additional time to comply.
21. She deponed that thereafter, Florence filed a response, alleging that the estate parcels had been demolished by the county government during heavy rains. However, no proof of such demolitions was provided. Even assuming demolitions occurred, Florence had collected rent prior to those events and remains accountable for those proceeds.
22. The correspondence exchanged between counsel, together with the appearances on record, clearly demonstrate that Florence was aware of the court’s orders but has deliberately chosen to ignore or disobey them. To date, she has failed to file the required estate accounts and has refused to cooperate in opening the joint account as directed by the court.
23. Meanwhile, she avered the estate continues to suffer waste and loss, as the Respondent persists in collecting and utilizing the rental income personally, contrary to her fiduciary obligations as an administrator. This unlawful conduct has now continued for over ten (10) months since the delivery of the court’s ruling, thereby depriving the estate of its rightful income.
24. Unless remedial action is taken, the continued disobedience will amount to a mockery of the court’s orders. The deceased’s estate is further exposed, being currently involved in pending litigation, specifically CMCC No. 9038 of 2019, which could result in financial liability.
25. It is therefore imperative that the estate be protected from waste and mismanagement. Accordingly, she prays that the rental income collected by the Respondent from November 2023 to date be deposited in court; and alternatively, should the application dated 18th December, 2023 be determined before then, Florence be ordered to remit all rent collected from November 2023 to date to the appointed estate agent for deposit in the jointly held account; and she be cited for contempt of court for failing to file the required estate accounts and for personally collecting rental proceeds in contravention of the orders issued by this Honourable Court on 13th October, 2023.
26. The application is unopposed, however, Florence Nyawira Weru has filed notice dated 9th December, 2024 withdrawing from being an administrator wholly and unconditionally.
27. No submissions have been filed with respect to the application dated 2nd October, 2024.



Analysis and Determination

28. I have read the application before this court, the responses thereto and the rival submissions and I have also perused the ruling of my sister Odera J dated 13th October 2023.
29. The two applications are basically skirting around that ruling. The administrators have deliberately failed to comply but have instead chosen to seek every reason not to comply and therefore waste the estate.
30. I don't think this is a matter that the court will spend much energy and time noting that its orders are being deliberately disobeyed.
31. It matters not whether the premises have been demolished as per Florence averments. She never backed it with any evidence or at all. None of the parties has in any way attempted to comply sufficiently.
32. I find the administrator Florence in particular contributed heavily to the non-compliance. Regardless of her withdrawal as an administrator she must give accounts of what she has been undertaking prior to that.
33. In the premises and in ruling on both applications which are more less similar I direct as hereunder.
 - (a) The Deputy Registrar of this court shall henceforth comply with the orders dated 13th October 2023 as directed under paragraph (3) thereof.
 - (b) The Respondent Florence Nyawira Weru shall provide accounts of any rental income she has collected from the tenants from 13.10.2023 to date.
 - (c) Costs in the cause.

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

H K CHEMITEI

JUDGE

