



In re Estate of the Late Habil Kimenge Kibunja (Deceased) (Succession Cause 388 of 2019) [2025] KEHC 14216 (KLR) (Family) (9 October 2025) (Ruling)

Neutral citation: [2025] KEHC 14216 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

FAMILY

SUCCESSION CAUSE 388 OF 2019

HK CHEMITEI, J

OCTOBER 9, 2025

IN THE MATTER OF THE ESTATE OF THE LATE HABIL KIMENGE KIBUNJA (DECEASED)

BETWEEN

FAITH KIBUNJA MURANG'A APPLICANT

AND

ELIZABETH NGINA KIMINGI 1ST RESPONDENT

APOLLO KIBUNJA KIMENGE 2ND RESPONDENT

STEPHEN MWAURAH KIMENGE 3RD RESPONDENT

RULING

1. In her application dated 30th July 2024 the Applicant seeks orders inter alia that a joint account be opened where all the rent proceeds from the estate shall be banked, that the Applicant be enjoined as an administrator in the estate; and that the Respondents be stopped from intermeddling with the estate.
2. The application is supported by the Applicant's sworn affidavit of even date and the grounds thereof.
3. Basically, the Applicant avers that she is a beneficiary of the estate by virtue of being the deceased daughter. The Respondents who are join Administrators of the estate are her mother and brothers respectively.
4. She avers that the 2nd and 3rd Respondents have intermeddled in the estate by collecting rent and denying the 1st Respondent usage of the same to the extent that she has been forced to pay for her medical expenses from her pocket.
5. She deponed that she ought to be included in the administration of the estate so that she can take care of her interest and those of their mother who has been neglected by the brothers.



6. The application is opposed by the replying affidavit sworn by the 2nd Respondent dated 22 October 2024 together with the annexures thereto.
7. He deponed that the entire estate had been distributed courtesy of the mediation settlement which was filed and adopted by the court and that all that the Applicant was doing was simply delaying the conclusion of the cause.
8. That the only property remaining was the Shauri Moyo one which ought to be shared out between the Respondents as the Applicant had already been given Ruiru East /Juja East Block 2/4160 in which she had taken a loan with it.
9. He deponed that the 1st Respondent who is well advanced in years is under their custody and that the Applicant lives in the United States of America. It is not even possible to have her act as an administrator in the estate or take care of their aging mother.
10. The court was made aware of a supplementary affidavit filed by the Applicant dated 13th June 2025. The said affidavit as rightly pointed out by the Respondents on 18th June 2025 was filed without the leave of the court. I shall therefore expunge it from the record.
11. I have perused the submissions together with the cited authorities by the parties which are a mirror of the issues raised in the rival affidavits. For want of time I shall not reproduce them here.
12. I find the application unmeritorious for the simple reason that the mediation agreement adopted by this court on 13th October 2022 was comprehensive enough.
13. The same dealt with the manner in which the estate was to be distributed including the shares of each individual. The only property in which they were unable to agree was the Shauri Moyo one.
14. I do not see any reason to allow the Applicant to be enjoined as an administrator at this stage for the fact that she does not live within the jurisdiction of this court and therefore administering the estate may be onerous.
15. Secondly there is really nothing to administer except to confirm the grant in terms of the mediation agreement once the Administrators move the court. Neither has she demonstrated any infractions by the Respondents in carrying out the administration of the estate.
16. I have not been shown any proceeds from the estate which needs an account to be opened for purposes of administration. There is no rent collection from any of the properties to warrant the court grant the orders sought.
17. Consequently, I find that the best way for the parties is to bring closure to the estate. It is long overdue considering the period the mediation agreement was adopted. This will ease any bad faith on the parties and allow each of them to move forward.
18. In the premises I direct as follows:-
 - (a) The application is hereby disallowed with no orders as to costs.
 - (b) The Administrators within 30 days from the date herein shall apply for the grant to be confirmed.
 - (c) Costs shall be in the cause.

DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 9TH DAY OF OCTOBER 2025.



H K CHEMITEI
JUDGE

