



**Kigia v Kungu (Miscellaneous Civil Application E211 of 2024)  
[2025] KEHC 13977 (KLR) (3 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13977 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
MISCELLANEOUS CIVIL APPLICATION E211 OF 2024  
DO CHEPKWONY, J  
OCTOBER 3, 2025  
IN THE MATTER OF THE ESTATE OF GITOMBA NJAU (DECEASED)**

**BETWEEN**

**MICHAEL KUNGU KIGIA ..... APPELLANT**

**AND**

**JOHN WANYOIKE KUNGU ..... RESPONDENT**

**RULING**

1. For determination before this court is the Notice of Motion application dated 17<sup>th</sup> October, 2024 in which the Applicant seeks the following orders:-
  - a. Spent.
  - b. That this Honourable Court do issue an Order to revoke/ set aside the Ruling issued on 29<sup>th</sup> August, 2024 as the Respondent herein for excluding his late sisters and brother.
  - c. That this Honourable Court do issue an Order against the Respondent to provide an audited report of the tea estate since 1964 as required by law/ or be ordered to return all money received all those years as had no jurisdiction on the estate as only the Appellant confirmed to whole family that succession cause no. 3 of 1994 was being dismissed and I filled the application before court to save the matter as Respondent never saw the doors of class and used by advocate in order to deny other late sisters and late brothers whose children are the beneficiary in estate.
  - d. That the Honourable Court to order the revocation of the Title No. Gatamaiyu/ Nyanduma/286 that was irregularly and illegally sold by the Respondent with other land cartels and not included in this estate (be investigated).
  - e. That the Honourable Chief Magistrate erred in law and did not note the four beneficiaries were unlawfully purported to be beneficiaries instead of 8 beneficiaries.



- f. That the Chief Magistrate erred in law in distribution of the estate and misled by the advocate to exclude the late 1<sup>st</sup> born son and late 2<sup>nd</sup> born daughter Gladys Wambui my mother hence others. Court lacked jurisdiction s applicant had applied for matter be heard by court mediation.
- g. Costs be condemned on Respondent.
2. The Application is based on the grounds set out on its face and the Supporting Affidavit of Michael Kungu Kigia sworn on even date and who acts in person. According to the Applicant in his address to court on 26<sup>th</sup> March, 2025, he served the Respondent's counsel with the application via Email. He says that he is seeking for directions that the matter be referred to court annexed mediation since some beneficiaries were left out of the Succession proceedings. He also says that he has received no response.
3. Having read through the application, this court finds that it is not clear what the Applicant is seeking this court to grant. On one hand, it appears as if he is seeking a review of the decision of the trial court (Hon. Wanjiru Njuguna), while on the other, it is seeking for revocation of the title deed of a parcel of land, then it appears as an appeal against the said decision and again it seeks for the matter to be referred to mediation.
4. While alive to the provisions under Article 159(2)(d) of *the Constitution* and Sections 1A and 3A of the *Civil Procedure Act*, which provides for the rules of procedure require courts to disregard procedural technicalities, the same also demand that the law must be complied with when it comes to instituting processing and presenting matters in court. A reading of the application shows that the Applicant was aggrieved by the decision of the trial court. However, he is not clear in his application what redress he is seeking from the court. If the Applicant was so aggrieved, he ought to have either filed a review of the said decision before the trial court or an appeal against the same before the High Court.
5. In view of the ambiguous nature of the application herein, this Court finds that it cannot allow the same as it is. The upshot is that the Notice of Motion application dated 17<sup>th</sup> October, 2024 though unopposed, be and is hereby struck out with no orders as to costs.

It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 3RD DAY OF APRIL , 2025.**

**D. O. CHEPKWONY**

**JUDGE**

In the presence of:

No appearance for and by either party

Court Assistant - Martin

