



REPUBLIC OF KENYA



KENYA LAW
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**Njeri & another v Njeri & another (Family Appeal E041 of 2024)
[2025] KEHC 14265 (KLR) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14265 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
FAMILY APPEAL E041 OF 2024
TW OUYA, J
OCTOBER 9, 2025**

BETWEEN

LUCY NJERI 1ST APPLICANT

ROSEMARY MUNJIRU 2ND APPLICANT

AND

STANLEY IRUNGU MWANGI 1ST RESPONDENT

EPHANTUS GICHERE MWANGI 2ND RESPONDENT

RULING

1. This ruling is in respect of the applicants summons dated 20th March, 2025. Prayers I and II of the summons are now spent, and what is pending this courts determination are the following prayers:
 - i. That this honourable court be pleased to appoint an independent agent to collect all rental income from the buildings erected on land parcels LOC.11/Maragi/5577, LOC.11/Maragi/5290,LOC.11/Maragi/8295,LOC.20/Kambiwa/5381 AND LOC.8/Their/865/36, pending the hearing and determination of this application and appeal;
 - ii. That this honourable court be pleased to order that a joint account be opened by both the appellants and respondents at KCB Bank Murang'a where all the rental income from the buildings erected on land parcels LOC.11/Maragi/5577,LOC.11/Maragi/5290,LOC.11/Maragi/8295,LOC.20/Kambiwa/5381 and LOC.8/Their/865/36, collected by the independent agent will be deposited pending the hearing and determination of this application and appeal;
 - iii. That the appellants/respondents be ordered to render a just and true account of how they have utilized the rental income amounting to Kshs. 400,000 per month, collected from



the buildings erected on land parcels LOC.11/Maragi/5577, LOC.11/Maragi/5290, LOC.11/Maragi/8295, LOC.20/Kambiwa/5381 and LOC.8/Their/865/36 from April 2024 to date;

- iv. That pending hearing and determination of this appeal, this honourable court be pleased to issue an injunction restraining the appellants/respondents by themselves, proxies, servants, agents or anyone else acting under their instructions from collecting, keeping and/or utilizing any rental income collected from the buildings erected on land parcels LOC.11/Maragi/5577, LOC.11/Maragi/5290, LOC.11/Maragi/8295, LOC.20/Kambiwa/5381 and LOC.8/Their/865/36, and or in any other manner whatsoever dealing with the said buildings;
 - v. That this honourable court be pleased to issue such orders or reliefs as may appear to court to be just and expedient and/or convenient to grant to the respondents/applicants; and
 - vi. That the costs of this application be borne by the appellants/respondents.
2. The application is anchored on the grounds stated on its face and on the depositions made in the supporting affidavit sworn on 20th March, 2025, by the applicants. Briefly, the applicants contended that by a judgement delivered on 25th April, 2024 and a subsequent rectified grant issued on 19th August, 2024, the applicants jointly with the respondents were appointed as joint administrators of the deceased estate, and that the said grant has never been set aside, reviewed or stayed, as such it is still in force.
 3. It is deponed that the deceased estate comprises of income generating properties, which the respondents/appellants have been unlawfully collecting, keeping and utilizing rental income from, without involving them. The applicants further alleged that the respondents/appellants have deliberately and intentionally obstructed them from undertaking and executing their duties as administrators of the deceased estate and that the respondents/appellants have been utilizing all rental income for their own benefit, to the exclusion of the other beneficiaries of the estate.
 4. The applicants contended that the respondents/appellants, being administrators of the deceased estate, need to render a true and just account for the approximately Kshs. 400,000 per month rent they have been collecting from the estate of the deceased; and it is therefore in the interest of justice that an independent agent be appointed to safeguard the estate's revenue, and a joint account owned by the applicants and respondents be opened at KCB Murang'a, where all rental income from the deceased estate collected by the independent agent will be deposited, pending the hearing and determination of the appeal.
 5. The applicants further contended that unless the orders sought are granted, the deceased estate will continue to suffer financial loss, mismanagement, and wasting away to the detriment of the rightful beneficiaries; and further, that the estate will suffer irreparable harm due to the continued unauthorized dealings by the respondents/appellants.
 6. The application was opposed by the respondents/appellants, vide a replying affidavit sworn by the 2nd respondent/appellant, Ephantus Gichere Mwangi, on 3rd April, 2025. In the affidavit, the respondents/appellants alleged that the application is incompetent and brought too late in the day, with the aim of delaying the hearing and determination of their appeal.
 7. That they are the rightful administrators of the deceased estate and they have managed the said estate to the best interest. They respondents/appellants alleged that there was no evidence that they are mismanaging the estate and they disputed the allegations made by the applicants that they collect Kshs. 400,000.



8. The respondents/appellants contended that the deceased estate has recurring expenses which require settlement and urgent attention, as such, it would not be appropriate to grant the orders sought in the application. The respondents/appellants further contended that there is no love between them and the applicants and the orders sought are out to expose and waste the estate.
9. The respondents/appellants alleged that they are ready and willing to prove accounts but ordering the same at the moment will further delay the determination of their appeal; and that the best interest of this matter will be served by the timeous disposal of the appeal, in which the court will determine all the duties and entitlements of the parties.
10. The respondents/appellants asserted that the applicants did not adduce any evidence of wastage of the estate that cannot wait for the determination of their appeal. They urged this court to dismiss the application or in the alternative, that the appeal be heard first as it will determine all the issues on the application as well as between the parties.
11. The application was canvassed by way of oral and written submissions. At the hearing of the application which was slated for 7th April, 2025 before this court, the applicants through their learned counsel Mr. Ndegwa orally submitted that the respondents/appellants have been administering the deceased estate to the exclusion of the respondents thus violating statutory obligations. Mr. Ndegwa submitted that the respondents/appellants cannot choose when to include or exclude the applicants when administering the deceased estate.
12. Mr. Ndegwa in his oral submissions contended that since April, 2024, when the grant was issued, the respondents/appellants have been exclusively collecting rent from the deceased estate to the tune of KShs. 400,000 per month, which they have been utilizing for their own benefit, as such, the present application is necessary, given that there is a duty to account as per the provisions of section 83 (h) of the *Law of Succession Act*.
13. Mr. Ndegwa further contended that the deceased estate is being wasted, and the respondents/appellants have not attached any evidence showing how they have managed the estate to the best interest as alleged, as such, it is necessary for them to render accounts for the income collected for the last one (1) year. Mr. Ndegwa urged this court to allow their application, given that the respondents/appellants have admitted that there is no love between them and the applicants.
14. On the other hand, Mr. Njiraini, learned counsel for the respondents/appellants submitted that the burden of proof lies with the applicants to prove their allegations against the respondents/appellants; and that the applicants have not adduced any evidence to prove that the respondents/appellants have excluded the applicants in the administration of the estate, or that they have collected the purported KShs. 400,000 per month rental income from the deceased estate or that there is wastage of the deceased estate.
15. It was the respondents/appellants submission that the proper procedure would have been for the applicants to seek for revocation of grant against the administrators complained of, which they did not. They further submitted that there was no attempt by the applicants to demonstrate that the respondents/appellants were denied any of their rights.
16. Mr. Njiraini contended that the present application will only settle issues on an interim basis, as such, it is a delaying tactic aimed at delaying the determination of their appeal, which would settle the matter with finality. He further contended that there was no request by the applicants to account for the deceased estate, and neither was there evidence on the allegations made by the applicants in their application, as such, the orders sought will only bring more hardship to the deceased estate, seeing



that the parties are not in talking terms. Mr. Njiraini in his submissions urged this court to dismiss the application.

17. In response to the oral submissions made by Mr. Njiraini, Mr. Ndegwa learned counsel for the applicants submitted that the obligation to render the accounts of the deceased estate lies with whoever is running the account. He also submitted that the argument by the respondents/appellants that the orders sought will bring undue hardship to the deceased estate is false as the applicants are only seeking to enforce a statutory obligation.
18. Mr. Ndegwa contended that should this court proceed to hear the appeal filed by the respondents/appellants, then the issues raised in the summons will not be dealt with, seeing that the appeal challenges the deceased oral will, which was confirmed by the trial court.
19. At the close of the hearing, this court directed the parties to file written submissions which I have duly considered.
20. Having considered the application, the affidavits in response as well as the rival oral and written submissions by the parties, I find that the main issue for determination is whether the prayers sought by the applicant should be granted.
21. One of the main prayers by the applicants in their application, was that the respondents/appellants be ordered to produce a statement of account of the rental income of Kshs. 400,000 per month that they have collected from the deceased estate. The respondents/appellants on their part disputed that they were collecting the said amount per month as rental income; and the applicants never adduced any form of evidence to support their claim that the respondents/appellants were collecting a rental income of Kshs. 400,000 per month from the income generating assets of the deceased.
22. The applicants had alleged that despite having been appointed as joint administrators of the deceased estate together with the appellants/respondents they have been side lined in the administration of the said estate, and that the appellants/respondents have been collecting and utilizing rental income from the deceased estate for their own benefit to the exclusion of all the other beneficiaries.
23. I have noted that the respondents/appellants have not denied that they have been collecting monthly rental income from the income generating assets of the deceased estate, they have only disputed the amount of Kshs. 400,000 per month rental income that the applicants have alleged they have been collecting from the said estate.
24. It is also clear that the respondents/appellants have excluded the applicants from the administration of the deceased estate, if that were not the case, the applicants would not have brought this application to court. That being said, it is not in dispute that the trial court vide a grant of letters of administration testate, rectified on 25th April, 2024, and issued on 19th August, 2024, appointed the applicants and the respondents/appellants as joint administrators of the deceased estate. The court therefore granted the applicants and the appellants/respondents' joint and equal authority to administer the estate of the deceased for the benefit of the beneficiaries of the said estate. This therefore means that no administrator has more rights than the other in the administration of the deceased estate or has the right to exclude another in the administration of the deceased estate.
25. The court in re Estate of Teresia Wanjiru Thuo (Deceased) [2016] KEHC 4325 (KLR); when faced with a similar situation stated as follows:

“I have noted from the record that the administration of the estate of the deceased was committed to three individuals.... This required the administration of the estate to be a joint effort of all three. None of them should shoulder the responsibility of administering



the estate alone, without consulting or working together with the other administrators. Where there are income-generating assets, the income must be held in bank accounts opened in the joint names of the three administrators, and any withdrawals from the account or expenditure of the money held in such accounts must be at the concurrence of all three. Ultimately all three must account jointly for the income.”

26. Similarly, the court in *re Estate of Makokha Idris Khasabuli (Deceased)* [2019] KEHC 257 (KLR); stated as follows:

“It must be stated that even though there are four administrators in place, in law there is only one administration or representation to the estate of the deceased. The four administrators hold one grant, which appoints all four of them as administrators. None of them holds a grant which makes them the sole administrators of the estate. Since there is only one administration, and not four, it behoves the four administrators to act as one with regard to managing the estate of the deceased. Responsibilities and duties must be shared. They must agree on the management of the assets. They must take a common stand on the expenses of administration and on the settlement of liabilities and debts and other outgoings. It should not be the business of one or a section of the administrators to make decisions on behalf of the estate, that falls upon all four of them.”

27. Based on the above cited authorities, it is evident that the appellants/respondents being joint administrators with the applicants, had no right to side line the applicants in the administration of the deceased estate. The appellants/respondents ought to have involved the applicants in the administration of the estate, for the smooth running of the affairs of the estate and for the benefit of the other beneficiaries of the deceased estate. Furthermore, a failure to involve the applicants in the administration of the estate of the deceased was a clear violation of the grant that had been issued to them as joint administrators.

28. Having stated that, it is trite that administrators of a deceased person estate are trustees, and are therefore required to be accountable to the beneficiaries of the estate on how they are running the said estate.

29. This position was restated by the court in *re estate of Geoffrey Mwangi Chege-Deceased* [2017] KEHC 9093 (KLR); as follows:

“Beneficiaries have the statutory right to obtain an account from the executors of the estate, and at any time they may ask for estate books and documents.... This is because an executor or administrator is a trustee and is accountable to the beneficiaries for his handling of the estate administration. Further, the executor or personal representative is accountable to the court on how he deals with the estate of the deceased.”

30. Again, the court in *re Estate of Peter Muigai Ruhiu (Deceased)* [2015] KEHC 2021 (KLR); stated thus: “The administrators hold an office of trust. They are in a fiduciary position to the beneficiaries with regard to the assets. They must, as trustees, account for every single cent that comes into their hands. The accounts before me do not indicate how the moneys collected over the period stated were utilized.”

31. Section 83 (h) of the *Law of Succession Act*, requires a personal representative: “to produce to the court, if required by the court, either of its own motion or on the application of any interested party in the estate, a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account.”



32. Given that the appellants/respondents have not disputed the allegations made against them that they have been collecting rental income from the estate of the deceased, it is paramount that they produce before this court a full statement of account of their dealings in the said estate from the month of April, 2024, to date. This statement of account should include the amount that they have been collecting as rental income per month and how these proceeds have been utilized.
33. For purposes of transparency and to avoid any further wastage of the estate, it will be prudent for the applicants and the appellants/respondents to open a joint estate account in their names, where all the rental income from the estate will be deposited pending the conclusion of the appeal filed by the appellants/respondents.
34. In this, I rely on the case of *re Estate of Makokha Idris Khasabuli (Deceased)* [2019] KEHC 257 (KLR); where the court held as follows:

“Since the administration is one and not four, the prudent thing to do should be that all the assets of the estate should be administered centrally. That would mean that all the income collected from the income-generating assets ought to be pooled together and preserved, to be applied to settle debts and liabilities, and ultimately for distribution amongst all those entitled. The best way to preserve rental income, or other income in monetary form, is to have it held in an estate account. Such estate account must, no doubt, be opened in the names of and operated by the administrators. They must identify the debts and liabilities to be cleared, and the administration expenses to be met. Joint administration, such as the one in this case, is a joint enterprise, it cannot be done by one administrator alone without involving the rest.”
35. Given that there is animosity between the applicants and appellants/respondents, who are also the joint administrators of the deceased estate, it would be prudent if a neutral estate agent is appointed to collect the said rental income and ensure that the same is deposited in the estate account, pending the hearing and determination of the appeal.
36. As regards the applicants’ prayer for an injunction restraining the appellants/respondents by themselves, proxies, servants, agents or anyone else acting under their instructions from collecting, keeping and/or utilizing any rental income collected from income generating properties of the deceased, I am of the considered view that the said order is not necessary.
37. This is because, as I have directed herein above, the applicants and the appellants/respondents who are joint administrators in the deceased estate, are to appoint a neutral estate agent to collect rental income from the income generating properties in the estate of the deceased, and deposit the same in an estate account, which is in the name of the joint administrators.
38. Having directed that an estate agent agreed upon by the parties be appointed to collect the rental income, I see no need to issue an injunction against the appellants/respondents as they will have no part in collecting any rental income in the estate, as rent collection will be carried out by the appointed estate agent. Furthermore, for transparency and accountability, the collected rental income shall be deposited in an estate account that is opened in the name of the joint administrators, and all the administrators will be aware of the transactions happening in the account.
39. Regarding costs, as this application has partially succeeded and considering also that this is a matter that involves family members and also to avoid any further animosity between the parties, I am of the view that each party should bear their own costs.
40. Final orders:



- i. That the four administrators shall with immediate effect jointly administer the estate of the deceased as one and none of them shall administer the estate of the deceased to the exclusion of the other, pending the hearing and determination of the appeal;
- ii. That the four administrators shall within thirty days (30) days from the date of this ruling jointly open and operate one estate account at KCB bank within Murang'a, in which all the income generated from the income generating assets of the deceased are to be deposited pending the hearing and determination of the appeal;
- iii. That within thirty (30) days from the date of this ruling, the four administrators to jointly agree upon and appoint a neutral and independent estate agent, who will collect all the rental income from the income generating assets of the deceased pending the hearing and determination of this appeal;
- iv. That all the tenants occupying any assets of the deceased are to be notified of the appointment of the said estate agent and the details of the estate account where they are to deposit their rent;
- v. That the appellants/respondents shall within a period of thirty (30) days from date of this ruling render accounts of their handling of the assets of the estate of the deceased from the month of April 2024 to date;
- vi. That the matter shall be mentioned thereafter for compliance and further directions.
- vii. Each party shall bear their own costs.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 9TH OCTOBER, 2025.

HON. T. W. Ouya.

JUDGE

For Appellant...Ms Maina HB Mr Njiraini for 1st & 2nd Appellant

For Respondent....Ndegwa for the 1st & 2nd Respondent/Applicants

Court Assistant...Brian

