



**Wanjiru v Chege & 4 others (Succession Cause 2602 of 2014)  
[2025] KEHC 14547 (KLR) (Family) (16 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14547 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 2602 OF 2014  
PM NYAUNDI, J  
OCTOBER 16, 2025**

**BETWEEN**

**TONY KAMAU WANJIRU ..... APPLICANT**

**AND**

**ELIZABETH WANJIKU CHEGE ..... 1<sup>ST</sup> RESPONDENT**

**HELLEN NJERI CHEGE ..... 2<sup>ND</sup> RESPONDENT**

**SIMON KIMANI CHEGE ..... 3<sup>RD</sup> RESPONDENT**

**PETER CHEGE (DECEASED) ..... 4<sup>TH</sup> RESPONDENT**

**MI (MINOR SUING THROUGH HER FATHER AND NEXT  
FRIEND) ..... 5<sup>TH</sup> RESPONDENT**

**RULING**

1. The Application for determination is dated 28<sup>th</sup> April 2025 and presented under Section 1A, 1B, 3A and 3B (sic) and Rules 3(1), (2)(3) of the High Court Practice Procedure Rules filed by Tony Kamau Wanjiru (the Applicant). It seeks the following orders;
  1. Spent.
  2. That this Honourable Court be pleased to order the following documents to be subjected to a Document Examiner from the office of the Director of Criminal Investigations.
    - i. P& A 80 –Petition of letters of administration dated 8/12/2015.
    - ii. &A 5- Affidavit in support of the petition for letters of administration sworn on 8/12/2015.



- iii. & A 12- Affidavit of justification of proposed administrators sworn on 8/12/2015.
  - iv. Form 38 –Consent for the making of a grant of administration dated 8/12/2015.
  - v. Authority to swear affidavit dated 8/12/2015.
3. That the foregoing documents be expunged from the court record.
  4. That Elizabeth Wanjiku, Hellen Njeri, Simon Kimani, Moses Ituma be ordered to produce copies of their ID Cards and signatures as a sample under supervision of Judicial Officer and that the same be forwarded to the Criminal Investigation Department for verification and investigation.
  5. That the signatures of Elizabeth Wanjiku, Hellen Njeri, Simon Kimani, Moses Ituma contained in the mediation sheet be compared with the signatures in prayer no. 2 above.
  6. That upon verification and investigation, Elizabeth Wanjiku, Hellen Njeri, Simon Kimani and Moses Ituma be charged with the relevant office(sic) if found culpable.
  7. That costs of the application be provided for.
2. Simon Kimani Chege, the 3<sup>rd</sup> Respondent opposed the application vide a replying affidavit dated 1<sup>st</sup> July 2025.
  3. Moses Ituma, the 5<sup>th</sup> Respondent filed a Notice of Preliminary Objection on the following grounds;
    1. That this Honourable Court lacks jurisdiction to entertain the applicant’s cause dated 28<sup>th</sup> April 2025 as per Article 165 (3) (a) of *the Constitution* of Kenya 2010 which states that the high court shall have unlimited original jurisdiction in criminal matters.
    2. That in addition to this provision of *the Constitution*, Gazette Notice No. 9123/2015 provides for various divisions of the High Court and in a bid to ensure effective case management of the expeditious disposal of cases.

#### **Applicant’s Case.**

4. According to him, most of the documents are forged. He argues that the documents were superimposed by one person or by one hand. He avers that the signatures that appear on P & A 80, P & A 5, P & A 12, P & A 38 and the authority to swear affidavit appear to be superimposed when compared with the signatures on their identity cards and the mediation form which were signed voluntarily. He asked the court to have these documents subjected to a document examiner to enable the court make an informed decision. He averred that no party would suffer prejudice by the Director of Criminal Investigation’s finding because the truth will be apparent.

#### **3<sup>rd</sup> Respondents Case.**

5. The 3<sup>rd</sup> Respondent denied the allegation of fraud and argued that all the documents filed in this court were signed by the administrators of the estate of the deceased. He argued that this court is not a criminal court and cannot be converted into an investigative forum without prima facie evidence. That the objector’s application is an afterthought and was filed after the summons for confirmation of grant had been set down for hearing. He avers that the application amounts to a fishing expedition meant to delay proceedings on account of unsubstantiated suspicions. He argued that the application amounts to abuse of the court process and ought to be dismissed with costs.



6. The court gave directions that both the Preliminary Objection and the summons be disposed by way of written submissions. The applicant and the 5<sup>th</sup> Respondent only filed submissions in respect to the Preliminary Objection. The 1<sup>st</sup> -3<sup>rd</sup> Respondents filed submissions in respect to the summons dated 28<sup>th</sup> April 2025.

#### **Applicant's Submissions.**

7. Relying on the decision of Estate of Bernard Kimani Chirchir (Deceased) Succession Cause 134 of 2023 [2025] KEHC 448 (KLR), the applicant submitted that it is common practice that courts determine the authenticity of signatures or handwriting in question. He argued that this court has original and unlimited jurisdiction particularly to order documents to be authenticated or to be verified.
8. In arguing that a preliminary objection is meant to dispose of a case, in this case if it was to be upheld, it would not dispose of the suit. He urged the court to allow his application.

#### **1<sup>st</sup> - 3<sup>rd</sup> Respondents Submissions.**

9. Relying on the decisions of Bakari Juma Diwani & 296 others v Charity Wangui Mwangi [2020] KEELC 1740 (KLR) and Ngatari v Njue & Another [2022] eKLR, where both courts declined to allow applications for forensic examination of signatures of disputed documents, it was their submission that the applicant's application is unmerited and an abuse of the court's process and the same should be dismissed.

#### **5<sup>th</sup> Respondent's Submissions.**

10. It was his submission that this court lacks jurisdiction to issue an order that the documents alleged to be forgeries to be examined by the Director of Criminal Investigation. That the mandate to investigate forgeries lies in the Criminal Division Court and the Anti-Corruption & Economic Crimes Division. Reliance was placed on Penina Auma Otago & another v Director of Public Prosecutions & 2 others: Zachary Okoth Obado & 8 others (Interested Parties) [2021] eKLR and Ondieki Nayiro v Paul Chepkwony & 2 others [2017] eKLR.

#### **Analysis And Determination**

11. Whereas the 5<sup>th</sup> Respondent challenged the jurisdiction of this court to issue the orders sought by the applicant. I do decline to cede jurisdiction, because it has been shown that in appropriate cases the Court may direct the Director of Criminal Investigation, to inquire into matters touching on a probate court to determine whether a criminal offence has been committed that touches on the integrity of the Cause before the Court.
12. The Court is sitting as a probate Court and its mandate limited to identifying the free estate of a deceased, the rightful beneficiaries and their respective shares. The Applicant is asking the Court to exercise its discretion and instruct the Directorate of Criminal Investigations (DCI) to investigate the authenticity of documents filed in support of the Petition for Grant of Letters of Administration. The issue therefore is whether the applicant has laid the basis for this Court to exercise the discretion it has in his favour. To do so I have to gauge the merits of the application.
13. If there was ever an application that would fit the tag of vexatious and an abuse of court process it would have to be this one. This is not the 1<sup>st</sup> time that the applicant is challenging the authenticity of documents lodged in support of the Petition for grant of letters of administration, he did so vide



his application dated 24<sup>th</sup> January 2022 and the Court in ruling dated 21<sup>st</sup> November 2022 found that the application had no merit and directed that the matter proceed to the hearing of the summons for confirmation.

14. The Summons for Confirmation is part heard. This is not an application to revoke the grant, the applicant simply desires that the D.C.I be compelled to investigate documents that were lodged in support of the Petition for Grant of Letters of Administration. In the ruling of 21<sup>st</sup> November 2022, it is evident that the grant issued to the Administrators pursuant to a consent recorded by the parties.
15. What then does the Applicant seek to achieve by filing this application? It does not challenge the Summons for Confirmation of Grant, it does not challenge the grant, he simply is calling for documents without linking the request to the Summons that is part heard before the Court. For this reason, I can only conclude that it is meant to vex, annoy and delay the finalization of this matter. The Court will not humor the Applicant. The matter will proceed to further hearing of the Summons for Confirmation.
16. For the above reasons, the application is dismissed with costs to the Respondents.

It is so ordered

**SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 16<sup>th</sup> DAY OF OCTOBER, 2025.**

**M. NYAUNDI**

**JUDGE.**

In the presence of:

Fardosa Court Assistant

Tonny Chege Applicant

Ms. Morara for 5th Respondent

Nekoye for Administrators

