



**In re Estate of Paul Kamiri alias Ngari Kamiri alias Paul Ngari Kameri (Deceased)  
(Succession Cause E011 of 2021) [2025] KEMC 222 (KLR) (11 September 2025) (Ruling)**

Neutral citation: [2025] KEMC 222 (KLR)

**REPUBLIC OF KENYA  
IN THE MARALAL LAW COURTS  
SUCCESSION CAUSE E011 OF 2021  
AT SITATI, SPM  
SEPTEMBER 11, 2025  
IN THE MATTER OF THE ESTATE OF PAUL KAMIRI ALIAS NGARI KAMIRI  
ALIAS PAUL NGARI KAMERI (DECEASED)**

**BETWEEN**

**JACINTA NYAMBURUGO KAMAU ..... APPLICANT**

**AND**

**MONICAH WANJIRU MURAKARU ..... 1<sup>ST</sup> RESPONDENT**

**JANE WANGECI ..... 2<sup>ND</sup> RESPONDENT**

**STEPHEN KAMIRI NGARI ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. By a Summons dated 6th February, 2025 for the revocationannulment of grant the Applicant prayed for:
  - a. That the Grant of Letters of Adminsitration Intestate to the above Estate granted to Monicah Wanjiru Murakaru, Jane Wangeci and Stephen Kamiri Ngari on 23rd May, 2021 and yet to be confirmed in this matter be revoked.
  - b. That costs of this application be provided for.

The grounds for revocation included:

The applicant who is a daughter to the deceased was not informed of the initiation of the proceedings and her consent was not sought to the appointment of the 3 administraticesadministrator hereinThat there are other beneficiaries who had been wholly excluded by the 3 petitioners despite being equally entitled to the estate.



2. The 3 petitioners opposed the application through Grounds of Opposition dated 12th May, 2025. The 3 petitioners respondents were represented by Kihoro Kimani & Associates Advocates while the Objector Applicant represented herself.

### **The Applicant's Case**

3. The applicant attended court for the hearing and adopted her application. She affirmed that she did not consent to the making of the grant and the subsequent appointment of the 3 petitioners who are her siblings as the joint administrators. The Applicant pointed out that the deceased had 10 children some of whom had now passed away. It was her further testimony that the 3 petitioners did not obtain the consent of the children of their deceased siblings to the application for the grant of letters of administration. She confirmed that the said survivors of her deceased siblings had thereby been wholly excluded from the proceedings. She prayed for the revocation of the said grant of letters of Administration Intestate.
4. In cross-examination, it emerged that –she only became aware of the suit in 2023 which was 2 years after the 3 petitioners had already proceeded with the suit. the 3 petitioners and the applicant had agreed amongst themselves (to the exclusion of the other beneficiaries to share the estate as follows – 1 shop to the Applicant, 7 houses & 2 shops to Monica, the home and hotel to Jane and Stephen was to get the farm. The other beneficiaries had been left out in this proposal the deceased had 10 children as follows Moffat Thangi Ngari Everline Wanjera Monica Murakaru Margaret Nyambura Mary Mwihaiki Jane Wangeci Jecinta Nyamburugo Lucy Mahira Stephen Kamiri Alice Muthoni out of the 10 children, the following 6 had now died Moffat Thangi Ngari Everline Wanjera Margaret Nyambura Mary Mwihaiki Lucy Mahira Alice Muthoni the children of the 6 deceased siblings had been excluded in these proceedings. The applicant was interested in being a joint Administratrix and it was her being excluded from administration that was one of the reasons for filing the present application wrongly included. Similarly, Ephantus Kithenya had been included yet he was a complete stranger to the estate.

### **The Respondents' Cases**

5. The 3 petitioners respondents wholly relied on the filed grounds of opposition. In summary, the grounds were The applicant had been participating in the suit The children of their deceased siblings have not been left out There was no defect in the proceedings in the gazette ment The applicant had been resisting the confirmation process despite being summoned to family meetings The applicant was only interested in delaying the conclusion of the suit

At that stage the parties closed their respective cases. No submissions were lodged.

### **Determination**

6. The only issue for determination is whether or not there exists grounds for the revocation of the Grant of Letters of Administration issued to the 3 petitioners.
7. On the applicable principles, this Court found guidance from the authority of *In Re Estate Of Epharus Nduati (deceased)* (2021)eKLR (c. Kariuki J.) where the learned Judge made the following pronouncement:

Section 76 of the *Law of Succession Act* states as follows:

76. Revocation or annulment of grant



A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any Interested Party or of its own motion—

- (a) that the proceedings to obtain the grant were defective in substance;
- (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
- (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;
- (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either—
  - (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or
  - (ii) to proceed diligently with the administration of the estate; or
  - (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
- (e) that the grant has become useless and inoperative through subsequent circumstances.”

8. Section 76 was clearly expounded on by the court *In re Estate of Prisca Ong'ayo Nande (Deceased)* [2020] eKLR where it was stated that:

“Under section 76, a court may revoke a grant so long as the grounds listed above are disclosed, either on its own motion or on the application of a party. A grant of letters of administration may be revoked on three general grounds. The first is where the process of obtaining the grant was attended by problems. The first would be where the process was defective, either because some mandatory procedural step was omitted, or the persons applying for representation was not competent or suitable for appointment, or the deceased died testate having made a valid will and then a grant or letters of administration intestate was made instead of a grant of probate, or vice versa. It could also be that the process was marred by fraud and misrepresentation or concealment of matter, such as where some survivors are not disclosed or the Applicant lies that he is a survivor when he is not, among other reasons. The second general ground is where the grant was obtained procedurally, but the administrator, thereafter, got into problems with the exercise of administration, such as where he fails to apply for confirmation of grant within the time allowed, or he fails to proceed diligently with administration, or fails to render accounts as and when required. The third general ground



is where the grant has become useless and inoperative following subsequent circumstances, such as where a sole administrator dies leaving behind no administrator to carry on the exercise, or where the sole administrator loses the soundness of his mind for whatever reason or even becomes physically infirm to an extent of being unable to carry out his duties as administrator, or the sole administrator is adjudged bankrupt and, therefore, becomes unqualified to hold any office of trust.”(underlining mine)

9. The learned Mr. Justice Kariuki in the above-cited authority went on to rule:

“38. In light of the above, I invoke the inherent powers of this court granted under Article 159 of the Constitution and Section 76 of the *Law of Succession Act* and make the order to revoke the letters of grant of administration issued to the Petitioner and subsequent confirmation as it was obtained fraudulently by the making of false statement or by the concealment from court of something material to the case particularly in relation to the sale of the 2 acre portion of NyandaruaOljoro Orok Salient1881 belonging to the Applicant’s husband.”

10. In the present case, as the Applicant has proved that the 3 Administratives Administrator concealed the proceedings from the children of their 6 deceased siblings who are beneficially interested in the estate. The court notes that in their joint petitioner, nowhere were the children of the 6 deceased siblings involved and yet this was a mandatory requirement that could have been complied by their signing Form 38 under rule 26(2) of the *Probate and Administration Rules*. As held on the authorities, failure to comply with a mandatory legal requirement is a sufficient ground for revocation.
11. Apart from excluding the children of their deceased siblings from their providing consent, the 3 petitioners did not obtain the consent of the Applicant who was also one of the rightful heiresses of her deceased father’s estate. She only learnt of the Grant 2 years after it had been made. Concealment of this fact was prejudicial to the applicant’s rights.
12. The court notes that only Martin Mwangi and Daniel Muringa signed the consent form 38 dated 9th September, 2021. The other beneficiaries including the Applicant were excluded. The others were listed but not involved in the consent process.
13. During the cross-examination of the Applicant evidence emerged showing that the 3 petitioner had lined up 2 strangers to the estate as possible beneficiaries after excluding the rightful beneficiaries.
14. The cumulative result of the foregoing was that the proceedings were defective in substance and the wholesale exclusion of the rightful beneficiaries gravely prejudiced the Applicant and the other surviving children of their siblings. By proposing to give third parties what they were not entitled to, the Administratives Administrator had embarked on a dangerous path that would have resulted in the breach of their respective fiduciary duties.
15. In the result, the Application succeeds and the court hereby makes the following orders:
  1. The Grant of Letters of Administration Intestate issued to the 3 petitioners herein is revoked and set aside. The 3 Administratives Administrator are hereby ordered to surrender to the Court the said Letters of Administration dated 23rd MAY, 2022 for cancellation forthwith but not later than 14 days of this ruling.
  2. The Court directs that the whole process shall start de novo within 30 days of this order for the Grant of Letters of Administration Intestate to be issued to whomsoever isare therein proposed. All the Administratorsbeneficiaries of their deceased siblings must be involved from



the start. This order is guided by similar orders made by the superior court in the case of *In re Estate of Jonathan Maritim Sirorei (Deceased)* [2025] KEHC 11880 (KLR) (Nyakundi J.)

3. Owing to the nature of the suit being a family matter, parties bear their respective costs.

It is so ordered. Right of appeal is 30 days.

**DATED, READ AND SIGNED AT MARALAL THIS 11TH DAY OF SEPTEMBER, 2025**

**HON. T.A. SITATI**

**SENIOR PRINCIPAL MAGISTRATE**

**MARALAL LAW COURTS**

Present

Applicant herself

Miss Kamunya Adv HB for Kihoro

Applicant: I was not refunded the fare. I discovered that the bank account has been closed. They withdrew a lot of money. Stephen was not given. I want an account investigation. All transactions shall be accounted for. Some tenants have been paying without reflecting in the estate account. Ephantus Kithenya and Esther Njeri. I want the court to read the last date issued by the previous magistrate. It is true that the petitioners excluded real beneficiaries. Stephen has blocked the EQUITY Bank. Monica and Stephen

**MISS KAMUNYA:**

Court:

\* 3 Petitioners Must File Accounts Within 30 Days Of This Order

\* Certified Ruling Uploaded To Cts

