



REPUBLIC OF KENYA



**In re Estate of Caroline Anyango Muchura (Deceased) (Succession Cause
2930 of 2014) [2025] KEHC 14792 (KLR) (Family) (23 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14792 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 2930 OF 2014
PM NYAUNDI, J
OCTOBER 23, 2025
IN THE MATTER OF THE ESTATE OF CAROLINE
ANYANGO MUCHURA (DECEASED)**

RULING

1. Vide Summons dated 27th May 2025, the Executor (Applicant) seeks the following orders;
 - a. Spent.
 - b. That the applicant be allowed to carry out renovations on Sunrise Plot No. Nairobi/Block 82/640 through Gojika Building and Interior Designs Limited.
 - c. That this Honourable Court be pleased to grant any other or further orders that it may deem fit and just to grant in the circumstances.
 - d. Costs of this application be provided for.
2. The application is brought pursuant to Rule 49 & 73 of the Probate and Administration Rules and was supported by a sworn affidavit by the applicant of even date. He filed a further affidavit sworn on 17th September 2025.
3. The respondent filed a replying affidavit sworn on 2nd July 2025.
4. In the supporting affidavit sworn on 27th May 2025, he avers that he is the executor of the estate of the deceased, his co-executor, Lawrine Odera relinquished her role as the co-executor of the estate of the deceased. The applicant states that the deceased purchased Sunrise Plot No. Nairobi/Block 82/640 on 13th April 2012. She sourced and secured a tenant who has been living on the property. Income accruing from the property goes to the beneficiary of the estate, Melody Machura. During one of his visits to the property, he noticed that the property is in a dilapidated state and needs urgent renovation.
5. The tenant in occupation is interested in staying on the property if the repairs are done. He argues that the renovation will add value to the property and increase income which is in the best interest



of the estate. He avers that as the executor of the estate, his role includes collecting, preserving and carrying out wishes in line with the will. He outsourced the services of Gojika Building and Interior Designs Limited to conduct a survey on repairs and was issued with a quotation of Kshs. 2,806,190. He avers that the estate has funds and is able to pay for the renovations. He urged the court to allow the application as no prejudice will be suffered by any of the beneficiaries.

6. In a Replying Affidavit sworn on 2nd July 2025, the Respondent, George Dominic Otieno states that the second administrator, Lawrine Odera relinquished her role as an administrator because of opaqueness and mismanagement of the estate. He challenges the validity of the will. he avers that the applicant is yet to produce an account for rent collected from the property in question for the past eleven years. Also, that no evidence has been placed before this court to show that the rental income has been going to the beneficiary of the estate. He challenged the photographs presented by the applicant showing the current status of the property. He argues that a certificate of electronic evidence has not been produced.
7. He stated that renovations were done in 2013. He argued that the estate will be prejudiced if funds are released because the applicant is bent on depleting funds from the estate without accounting for the same. The Respondent argued that the money in the joint interest account by the advocates are funds from the sale of LR No. 19952/188 where the court held that he is entitled to 50% of it as a tenant in common with the deceased. Finally, he stated that the applicant's intention is to interfere with the deceased's estate and deplete funds before the hearing of the summons for revocation.
8. In a Further Affidavit sworn on 17th September 2025, the applicant states that rent from Sunrise Plot No. Nairobi/Block 82/640 has all along been used for the beneficial interest of the deceased's daughter. He stated that he used the rental income to pay her school fees from October 2015 up to September 2018. The tenant since October 2018 has been sending her rent to the deceased's daughter. He avers that he took a loan of 9,500 Sterling Pounds from Tesco Bank and used it to renovate the roof and inside of the house. He seeks a refund of the said amount of money.

Applicant's Submissions.

9. The applicant's submissions are dated 30th September 2025. He enumerates the following as the issues for determination;
 - a. Whether the applicant should be allowed to carry on renovations on Sunrise Plot No. Nairobi/Block 82/640.
 - b. Whether the applicant is entitled to a refund of the funds he utilized in renovating Sunrise Plot No. Nairobi/Block 82/640.
 - c. Who should bare costs of this application.
10. He reiterated the facts in his replying affidavit sworn on 2nd July 2025. It was the applicant's submission that the deceased's estate vests on the personal representatives after death as provided under Section 79 of the *Law of Succession Act*. In this case, he argued that as at the time of filing submissions, he had done renovations of the house as evidenced in the evidence before court.
11. It is the applicant's submission that since he has renovated the house which is now habitable, he is entitled to a refund of the amount he spent in renovating the house. He argued that since the deceased's estate is entitled to 50% held in the joint interest account, he should be refunded from that account.
12. On the issue of costs, it is submitted that the Respondent should bear the costs of the suit as the application was necessitated and opposed occasioning him avoidable costs. Reference is made to the



decision in Jasbir Singh Rai & 3 others v Tarlochan Singh Rai & 4 others SC Petition No. 4 of 2012; [2014] eKLR.

Analysis and Determination

13. I have considered the pleadings filed herein alongside the submissions filed and the relevant law. The issue for determination is whether the applicant should be allowed access to purchase money in respect of Land Reference Number 19952/185 to undertake renovations that have been assessed at Kshs 2,806,190 on Sunrise Plot No. Nairobi/Block 82/640.
14. I assume that the application was necessitated by the fact that the rental income is deposited in a joint account with the Counsel for the respondent. Earlier the respondent in the current application had made a similar application that I dismissed vide ruling dated 18th March 2025.
15. The Will under which the executor acts is challenged. There is an ongoing process to prove the will. The Petition herein was filed in 2014. The scales of justice tilt towards expediting the completion of the Succession cause and making a final determination on the administration of the Estate.
16. I am not satisfied that the facts herein warrant the release of the funds sought. Accordingly, the matter will proceed to the hearing of the summons of revocation which is part heard. The Application dated 27th May 2025 is therefore dismissed. There shall be no order as to costs.
17. As stated then the parties herein should focus on dispensing with the summons for revocation and final confirmation of grant herein so as to facilitate transmission to the beneficiaries of the estate. The matter is confirmed for hearing on 4th March 2026.

SIGNED, DATED AND DELIVERED VIRTUALLY IN NAIROBI ON 23rd DAY OF OCTOBER, 2025.

P.M. NYAUNDI

JUDGE

In the presence of:

Fardosa Court Assistant

Ms. Ndege holding brief for Executor/Applicant

