



**In re Estate of Rugira Ikiara (Deceased) (Succession Cause
752 of 2015) [2025] KEHC 15041 (KLR) (23 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15041 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 752 OF 2015
HM NYAGA, J
OCTOBER 23, 2025
IN THE MATTER OF THE ESTATE OF RUGIRA IKIARA(DECEASED)**

BETWEEN

PAULINA NKAWA M'MUKETHA 1ST PETITIONER

DOUGLAS KAIMENYI KINYUA 2ND PETITIONER

AND

RAEL KAREGI M'RUKARIA APPLICANT

AND

CHARLES MARETE INTERESTED PARTY

RUFUS KIRIGA M'IKIRIGA INTERESTED PARTY

RULING

1. The deceased, Rugira Ikiara, died intestate in the year 1968.
2. Following his demise, 5th November, 2015, Pauline Nkawa M'muketha and Douglas Kaimenyi Kinyua petitioned for letters of administration intestate in their capacity as "daughter" and "grandson" respectively. The deceased's estate comprised only one asset, land parcel No. Abothuguchi/Ruiga/228.
3. According to the affidavit in support of petition for letters of administration intestate, the deceased was survived by three beneficiaries, namely;
 1. Paulina Nkawa M'muketha- Daughter
 2. Piliciara Kathumbi M'itwamwari- Daughter
 3. Douglas Kaimenyi-grandson.



4. On 29th February,2016, the said letters of administration intestate were issued to the Petitioners herein and the same confirmed on 13th March,2017.
5. Subsequently, the Applicant herein, filed summons for revocation of grant dated 8th June,2022 on 15th June,2022 seeking for orders: -
 - i. Spent
 - ii. That this Honourable Court be pleased to revoke and/or annul the confirmed grant obtained on 29th May,2017.
 - iii. That this Honourable Court be pleased to issue an Inhibition and/or restriction over, Land Parcel No. Abothuguchi/Ruiga/3966, Abothuguchi/Ruiga/3967, Abothuguchi/Ruiga/3277 & Abothuguchi/Ruiga/3278 pending the hearing and determination of this summons or pending further orders of the court.
 - iv. A declaration that the transactions of sale transfer of assets of the deceased's estate to the third party are null and void and an order do issue for the cancellation of the suit land title in the name of third party directing the land registrar Meru Central to reinstate land parcel No. Abothuguchi/Ruiga/3966, Abothuguchi/Ruiga/3967, Abothuguchi/Ruiga/3277 & Abothuguchi/Ruiga/3278 or any subsequent combination consolidation some or all of them back into the name of the deceased herein.
 - v. That costs of this Application be borne by the petitioner.
6. The Application is premised on the grounds that; the grant dated 29th May,2017 was obtained fraudulently by making of a false statement; the grant was obtained by the concealment from this court of something material to the case; the grant was obtained by means of untrue allegation of a fact essential in point of law to justify the grant; & that no consent was obtained from the Applicant herein as provided under the law.
7. The summons is supported by an affidavit sworn by Rael Karegi M'rukaria on the even date wherein she reiterated that the grant was obtained without her knowledge and that she is entitled to her father's estate just as the petitioners.
8. The Applicant herein in her further supporting affidavit dated 29th March,2023 deponed that she and Paulina Nkawa M'muketha & Piliciara Kathunmi M'itwamwari both currently deceased are daughters of the deceased.
9. She averred that on 24th May,2017 the petitioners herein were registered as joint owners of the deceased land parcel number 228/Abothuguchi/Ruriga and the title deed issued to them.
10. She deposed that on 12th October,2018 the aforesaid land was subdivided into numerous namely; 3276,3966,3967 and 3277 respectively and on 17th May,2022 upon conducting a search she discovered that Land Parcel No. 3278 was transferred to Charles Marete while the land parcels nos. 3966,3967 and 3277 transferred to Douglas Kaimenyi, the 2nd Petitioner herein.
11. It was her deposition that the Douglas Kaimenyi, Rufus Kirigia M'Muketha and Charles Marete Buuri are total strangers to the deceased herein and are not entitled to the share of his estate.



12. She thus urged this Honourable Court to issue an order of cancellation of the above parcels and restore the same to the deceased herein.
13. In opposition to the Application, Charles Marete, the 1st Interested party swore a replying affidavit on his behalf and on behalf of the 2nd Interested party on 12th July,2020.
14. He deposed that they are the grandchildren of the deceased by virtue of being children of his daughter one Paulina Nkawa M'Muketha.
15. He averred that the deceased had other two children i.e. Priscilla Kathumbi and Rael Karegi.
16. He contended that Priscilla Kathumbi had no children and she took him as her child and that he took care of him until she died in January,2022.
17. He deposed that by the time of her demise, the Succession cause had been concluded and she allowed him to inherit her share.
18. He asserted that all the while neither Rael Karegi nor their mother, Paulina Nkawa ever raised any issues.
19. He deposed that the 2nd Interested party received the share of their mother and has obtained a title deed and is in total occupation and development.
20. He contended that the Applicant herein had denounced her share in 2016, a fact which she personally confirmed to her for reason that she had more than enough land at Ruiga where she was married.
21. He asserted that he has since been registered as the proprietor of land parcel number Abothuguchi/Ruriga/3278 while the 2nd interested party has been registered as the proprietor of Abothuguchi/Ruriga/3277.
22. He prayed that the Application be dismissed with costs.
23. The 2nd Petitioner, Douglas Kaimenyi, did not respond to the application.
24. The matter was heard on 25th February,2025.
25. Paulina Nkatha, the petitioner herein, testified that she is a daughter to the deceased and that the deceased had three children. i.e Priscilla Kathumbu, Rael Karegi and herself.
26. She said Priscilla is deceased and that she did not have any children. It was her testimony that the 2nd Petitioner is not a beneficiary of the deceased and did not know how he became a co-administrator. She said she has five children. Namely;
 - i. Charles Marete
 - ii. Florence Ntinyari
 - iii. Mercy Mpunda
 - iv. John Kinangania(deceased)
 - v. Rufus Kirigia
27. The Applicant, Rael Karegi, stated that she did not know the 2nd Administrator and that she has three children. Namely;



- i. Samson Kijuki (deceased)
 - ii. Juanina Kanumbe(deceased)
 - iii. Severina Kanoria
28. She urged the court to distribute the estate to the children of the deceased so that they can distribute to their children.
29. The interested parties on their part told court that they will rely on their aforementioned Replying Affidavit sworn on 12th July,2024.

nalysis & Determination

30. I have read the Application, affidavits in support and in opposition to the Application. I have also considered the evidence on record and in my view the sole issue which falls for determination is whether the grant issued on 29th February,2016 to the Petitioners and confirmed on 13th March,2017 should be revoked.
31. Revocation of grant is provided for under section 76 of the Act. This section provides 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.”

32. A reading of the objector’s application leaves no doubt that the grounds cited fall under section 76 (b) & (c) above.

33. The court, in the case of Jamleck Maina Njoroge vs Mary Wanjiru Mwangi (2015) eKLR at paragraph 11 of its ruling in revoking a grant reiterated the grounds upon which a grant can be revoked. It stated as follows:

“The circumstances that can lead to the revocation of grant have been set out in Section 76 Law of Succession. For a grant to be revoked either on the Application of an interested party or on the court’s own motion there must be evidence that the proceedings to obtain the grant were defective in substance, or that the grant was obtained fraudulently by making of false statement, or by concealment of something material to the case, or that the grant was obtained by means of untrue allegations of facts essential in point of law.”

34. In this case, the Applicant contends that the grant was obtained without her involvement as the deceased’s child and she was disinherited. She further contends that the 2nd Petitioner, who was appointed as a co-administrator of the deceased’s estate, is a stranger to the estate.

35. I have considered the evidence on record. In my view the grant was obtained fraudulently as the 2nd Petitioner falsely described himself in the petition for grant of letters of administration intestate as the deceased’s grandson yet he is not related to the deceased. The Applicant and the 1st Petitioner confirmed they do not know him and evidence showed he was not a child of any of the deceased’s children. Additionally, the 1st Petitioner admitted she did not know how she became a co-administrator.

36. It is also clear that the grant was also obtained without involving the Applicant, a daughter of the deceased and rightful beneficiary and it failed to provide for her share in the estate.

37. Accordingly, it is evident the grant was obtained through fraud and concealment of material facts.

38. It is not in dispute that the Interested Parties are the children of Pauline Nkawa, a daughter of the deceased, who is still alive, and that they have been duly provided for as reflected in the certificate of confirmed grant.

39. Section 39 of the *Law of Succession Act* makes grandchildren heirs in intestacy, where their own parents, who are biological children of the deceased, are dead.

40. Section 41 of the *Law of Succession Act*, which provides as follows:

“41. Property devolving upon child to be held in trust Where reference is made in this Act to the “net intestate estate”, or the residue thereof, devolving upon a child or children, the property comprised therein shall be held in trust, in equal shares in the case of more than one child, for all or any of the children of the intestate who attain the age of eighteen years or who, being female, marry under that age, and for all or any of the issue of any child of the intestate who predecease him and who attain that age or so marry, in which case the issue shall take through degrees, in equal shares, the share which their parent would have taken had he not predeceased the intestate.”



41. The Court of Appeal in *Christine Wangari Gachenge vs. Elizabeth Wanjiru Evans & 11 Others* [2014] eKLR stated thus:

“Although Section 35 and 38 of the *Law of Succession Act* is silent on the fate of surviving grandchildren whose parents predeceased the deceased, the rate of substitution of a grandchild for his/her parent in all cases of intestate known as the principle of representation is applicable. The law is on section 41. If a child of the intestate has predeceased the intestate, then that child’s issue alive or en ventre sa mere on that date of the intestate’s death will take in equal share per stirpes contingent on attaining the age of majority. Per stirpes means that the issue of a deceased child of the intestate take between them the share their parents would have taken had the parent been alive at the intestate’s death.”

42. In *Re Estate of Veronica Njoki Wakagoto (Deceased)* [2013] eKLR, it was held that:

“Under Part V, grandchildren have no right to inherit their grandparents who die intestate after 1st July 1981. The argument is that such grandchildren should inherit from their own parents. This means that the grandchildren can only inherit their grandparents’ indirectly through their own parents, the children of the deceased. The children inherit first and thereafter grandchildren inherit from the children. The only time grandchildren inherit directly from their grandparents is when the grandchildren’s own parents are dead. The grandchildren step into the shoes of their parents and take directly the share that ought to have gone to the said parents.”

43. I concur with the principles stated above. The Interested Parties can only inherit directly from the deceased’s estate upon the death of their mother.

44. It is not in dispute that the only asset of the deceased’s estate is Land Parcel Abothuguchi/Ruiga/228, which was subsequently subdivided into Parcels 3276, 3966, 3967, and 3277. Thereafter, Parcels Abothuguchi/Ruiga/3278 and 3277 were transferred and registered in the names of the 1st and 2nd Interested Parties respectively. The Interested Parties did not disclose to this Court how they acquired their respective land. The said subdivisions and transfers emanated from the fraudulently obtained grant and are therefore illegal.

45. Flowing from above, I find that the applicants have made out a case for the revocation of the grant herein. Consequently, the following orders do issue;

- i. The grant issued on 29th February, 2016 herein to Paulina Nkawa M’Muketha and Douglas Kaimenyi Kinyua and the subsequent certificate of confirmation of grant issued on and confirmed on 13th March, 2017 are revoked
- ii. All the titles issued as a consequence of the said grant being Abothuguchi / Ruiga / 3276, 3277, 3966 & 3967 are to be cancelled forthwith and shall revert to Abothuguchi/ Ruiga/228.
- iii. Land Parcel No. Abothuguchi/Ruiga/228 to forthwith revert to and be registered in the name of the deceased.
- iv. Any of beneficiaries of the estate are at liberty to apply for letters of administration afresh, but involve everyone else concerned as required by the law.
- v. There shall be no orders as to costs.



46. Orders accordingly.

DATED, SIGNED AND DELIVERED AT MERU THIS 23RD DAY OF OCTOBER, 2025.

H. M. NYAGA

JUDGE.

