



**In re Estate of Alphonse Muhati Ligambo, aka Alphonse Muhati Ligambo – Deceased  
(Succession Cause 36 of 2012) [2025] KEHC 16839 (KLR) (17 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16839 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
SUCCESSION CAUSE 36 OF 2012  
S MBUNGI, J  
NOVEMBER 17, 2025**

**IN THE MATTER OF THE ESTATE OF ALPHONSE MUHATI  
LIGAMBO, AKA ALPHONSE MUHATI LIGAMBO – DECEASED**

**BETWEEN**

**ROSE KHABUKWI ..... 1<sup>ST</sup> PETITIONER  
GLADYS ISANJILU MUHATI ..... 2<sup>ND</sup> PETITIONER  
TERESIA K MUHATI ..... 3<sup>RD</sup> PETITIONER**

**AND**

**ALFRED MUHATI ..... 1<sup>ST</sup> APPLICANT  
FLORENCE MUHATI ..... 2<sup>ND</sup> APPLICANT  
IRENE MUHATI ..... 3<sup>RD</sup> APPLICANT  
LEONIDA MELAN MUHATI ..... 4<sup>TH</sup> APPLICANT**

**RULING**

1. Vide Chamber Summons application dated 27th June 2025, learned counsel for the applicant moved the court seeking orders to arrest the delivery of judgment and to afford the applicant, together with her intended witness, an opportunity to be heard. The applicant contends that such indulgence is warranted in the wider interest of justice, she being one of the beneficiaries of the estate in question.
2. Learned counsel for the applicant contends that neither the applicant nor her advocate was present in court when directions were issued requiring the parties to file their written submissions.
3. In the supporting affidavit, the 4th applicant avers that she is one of the objectors and further states that one of the petitioners, Gladys Muhati, failed to attend court to be cross-examined. Subsequently,



directions were given for the parties to file their submissions, but at that material time, the applicant's advocate was not in court to take instructions or respond.

4. They denied having been allowed to be heard and pray that the court arrest the intended judgment and allow them a chance to be heard.
5. The applicants deny having been allowed to be heard and pray that the court arrest the intended delivery of judgment and grant them a fair opportunity to present their case.
6. The respondent did not oppose the application.

### **Analysis and determination**

7. The main issue for determination is whether this court should arrest the delivery of judgment and allow the Applicants to be heard.
8. The principle of natural justice, as enshrined in Article 50(1) of *the Constitution* of Kenya, 2010, guarantees every person the right to be heard.
9. In succession matters, it is settled law that beneficiaries and objectors must be given an opportunity to be heard before the Court makes orders that may affect them.
10. The facts indicate that the Applicants, as beneficiaries and objectors, were not present did not have the opportunity to cross-examine key witnesses.
11. Failure to allow the Applicants to participate before the delivery of judgment would amount to a breach of the principle of audi alteram partem, which is fundamental in succession proceedings, especially where the Applicants are legally entitled to be heard.
12. In the circumstances, and guided by the principles of natural justice, as well as statutory and procedural provisions, the Court finds that it is just and equitable to grant the relief sought.
13. Accordingly, the Chamber Summons is allowed, and the Court makes the following orders:
  - a) The delivery of judgment in Succession Cause No. 36 of 2012 is hereby arrested pending the Applicants being heard.
  - b) The Applicants and their witnesses shall be afforded an opportunity to be heard before the matter proceeds to judgment.
  - c) Costs of this application shall be in the cause.
  - d). Right of Appeal 30 days explained.
  - e) Hearing on 14.5.2026.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT KAKAMEGA THIS 17<sup>TH</sup> DAY OF NOVEMBER, 2025.**

**S.MBUNGI**

**JUDGE.**

In the presence of:-

CA: Angong'a

Ms. Siro holding brief for Getanda for the 3<sup>rd</sup> Petitioner, present.

