

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT THIKA  
IN THE MATTER OF THE ESTATE OF JOSEPH MUTURI KURUTU  
(DECEASED)  
SUCCESSION CAUSE NUMBER E009 OF 2024

**RULING**

Isaac Mbuthia Muturi and Simon Njoroge Muturi, the joint administrators of the estate of the deceased herein have through a chamber summons dated 23<sup>rd</sup> July 2025 applied for confirmation of grant issued to them on 18<sup>th</sup> December 2024. The application is supported by affidavit of the said administrators whose paragraph 5 gives the proposed mode of distribution.

When this matter came for hearing of the application on 8-09-2025, this court interviewed the administrators and the beneficiaries all of whom confirmed that they were agreeable to the proposed mode of distribution. Among the properties sought to be distributed were parcels of land numbers Nyandarua/Pesi/167, Nyandarua/Pesi/168, Nyandarua/Pesi/169 and Ndithini/Mananja Block 5/860. The court raised issues with the counsel for the applicants regarding these properties for the following reasons;

1. The attached certificate of search for Ndithin/Mananja registration Section was for parcel number 862 and there was no certificate of search for parcel number 860. In the petition for grant of letters of administration, neither of the two parcels were included.
2. Nyandarua/Pesi/167 had a caution by one Annah Wangechi of P.o. Box 1296 Karai claiming purchaser's interest. The property is also charged to Kenya Industrial Estate for a sum of Kshs 350,000.00.

3. Nyandarua/Pesi/168 had cautions registered against it by the Cooperative Bank of Kenya Limited claiming interest as chargees; Francis Njuru Wahome of P.o. Box 317 Nyeri claiming purchaser's interest and Isaac Mbuthia Muturi of P.o. Box 4630 Thika who is one of the administrators herein claiming beneficiary's interest.
4. Nyandarua/Pesi/169 had the same cautions as in parcel 168 above.

The court sought explanation from the applicant's advocate who explained that parcels numbers 168 and 169 were subjects of Nyahururu ELC case ELCA number E004 of 2022 which was concluded in favour of the administrators but the other party appealed in the Court of Appeal at Nakuru vide civil appeal number E041 of 2025 which is pending for hearing. The counsel did not offer any explanation for parcel number 167. He also told me that there was a typographical error in respect of the Ndithni/Mananja parcel and requested me to correct the same to read 862. The counsel proceeded to ask the court to confirm the grant partially and omit parcels 168 and 169 promising that the applicants will take up their distribution after the appeal is determined.

Following the explanation, I made an order directing the applicants to file a supplementary affidavit within seven days explaining what the counsel had stated from the bar. As I write this ruling on 27-10-2025, no such affidavit has been filed.

Whereas the court appreciates that it can grant a partial confirmation, I do not think that it is appropriate to do so in this matter since there is no clarification on the issues I raised. The consent the beneficiaries signed in support of the application was based on the proposed mode of distribution as per the applicants' supporting affidavit and not what the counsel stated from the bar.

This matter exemplifies many that cause unnecessary backlog by their potential of inviting applications for revocation, amendment or review of the confirmed grant. Let the applicants complete their duty of collecting the estate before applying for confirmation of grant.

In the circumstances, I disallow the application dated 23<sup>rd</sup> July 2025 and direct that the applicants shall file a fresh application for confirmation of grant after addressing the questions this court raised. Orders accordingly.

Dated signed and delivered at Nairobi this 14<sup>th</sup> day of **November** 2025.

**B.M. MUSYOKI**  
**JUDGE OF THE HIGH COURT.**

Ruling delivered in presence of Miss Mugo holding brief for Mr. Karanja Kagiri for the appellant.