



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
FAMILY DIVISION
SUCCESSION CAUSE NO. 642 OF 2013
IN THE MATTER THE ESTATE OF NJOROGE NGUGI
(DECEASED)

DAVID KAMAU MUHIA
APPLICANT

VERSUS

LUCY WANJIRU NJOROGE 1ST
PETITIONER/RESPONDENT

JOHN KIARIE NJOROGE 2ND
PETITIONER/RESPONDENT

RULING

1. This ruling relates to the applications dated **1st March, 2024** filed by the Applicant, David Kamau Muhia; seeking for

ORDERS THAT:-

1. ***Spent.***
2. **The Applicant herein be enjoined in this succession cause as an interested party.**

- 3. The grant of letters of administration made to Lucy Wanjiru Njoroge and John Kiarie Njoroge on 26th June, 2013 be revoked and/or annulled.**
- 4. The Administrators of the deceased's estate be held to account on the deceased's estate from their time of their appointment as such up to date.**
- 5. The honourable court do appoint independent auditors to carry out an audit of the income generated from the deceased's properties from 8th September 2012 up to date that is:-**
 - i) Plot No. 36/1/433 Nairobi Eastleigh.**
 - ii) Plot No. 102 Umoja.**
 - iii) L. R. No. Nairobi/Block 116/565 - Zimmerman.**
 - iv) Plot No. 16 Kamburu.**
 - v) L. R. No. 7340/196 Mavoko Municipal Council.**
 - vi) Plot No. 36/VII/1023 Eastleigh.**
 - vii) Plot No. 209/11976 Mathare.**
 - viii) Plot No. T3 LRP3 Nairobi North Kahawa West.**
 - ix) L. R. No. Githunguri Plot No. 125.**
 - x) L. R. No. Githunguri Plot No. 10A.**
- 6. This honourable court do order that the Administrators Lucy Wanjiru Njoroge and John Kiarie Njoroge do provide all the documents required by the auditors towards the accounting**

exercise being carried out and the said auditors to file a report in court.

7. Costs of this application be provided for.

2. The application is based on the grounds thereof and supported by affidavit sworn by David Kamau Muhia on **1st March, 2024** who avers *inter alia* that he is a beneficiary of the deceased's estate by virtue of being a son-in-law. The deceased, during his lifetime, was married to Ruth Wambui Njoroge and together they had the following children: Lucy Wanjiru Njoroge (daughter), Mary Mukuhi Njoroge (daughter - deceased), James Ngugi Njoroge (son - deceased), Jacinta Njeri Njoroge (daughter), Peter Kibui Njoroge (son - deceased), Hanna Waithira Njoroge (daughter), Margaret Muthoni Njoroge (daughter - deceased) and John Kiarie Njoroge (son).
3. At the time of petitioning for the grant of letters of administration, the petitioners failed to disclose that the deceased had a daughter, Mary Mukuhi Njoroge, who had predeceased him. The said Mary Mukuhi Njoroge, who was the Applicant's wife, died on **28th February, 1992**, leaving behind the following survivors: David Kamau Muhia (husband), John Muhia Kamau (son), Beatrice Muthoni Kamau (daughter) and George Chege Kamau (son). Despite being aware of these facts, the petitioners omitted both the late Mary Mukuhi Njoroge and her surviving spouse and children from the list of beneficiaries when petitioning for the grant of letters of administration.

4. Furthermore, in the petition for grant of letters of administration intestate, the petitioners failed to disclose several properties forming part of the deceased's estate, namely: Plot No. 36/1/433 - Eastleigh, Nairobi, Plot No. A102 - Umoja, L.R. No. Nairobi/Block 116/565 - Zimmerman, Plot No. 16 - Kamburu, L.R. No. 7340/196 - Mavoko Municipal Council, Plot No. 36/VII/1023 - Eastleigh, Plot No. 209/11976 - Mathare and Plot No. T3 LRP3 - Kahawa West, Nairobi North.
5. Following the filing of the petition, the Administrators were issued with the grant of letters of administration on **26th June, 2013**. Since the issuance of the said grant, the Administrators have engaged in acts of intermeddling and mismanagement, collecting and utilizing proceeds from the estate for their exclusive benefit, while disregarding the rights of other beneficiaries.
6. On **17th September, 2021**, this court directed the Administrators to produce a full and accurate inventory of all the assets and liabilities of the estate. In response, by an affidavit sworn by John Kiarie Njoroge on **25th February, 2022**, the Administrators submitted edited and misleading accounts. The said accounts are false, as they understate the estate's income, which for the past eleven years exceeds **Kshs. 26,240,000/=**, contrary to what was declared.
7. Additionally, the Administrators failed to account for income from the following properties: L.R. Nairobi Block 116/565 -

Zimmerman, Plot No. A102 – Umoja, Plot No. 16 – Kamburu and L.R. No. Githunguri Plot No. 25.

8. It is therefore in the interest of justice that the estate be preserved pending its lawful distribution among all rightful beneficiaries. The Administrators have failed in their statutory duty to administer the estate diligently and fairly.
9. The grant issued in 2013 has been grossly abused, as the Administrators have demonstrated bias, discrimination and concealment of material facts from this court. Their actions amount to intermeddling and self-enrichment, to the detriment of other beneficiaries. Unless this court intervenes, the Applicant and other rightful beneficiaries risk disinheritance, as the Administrators continue to mismanage and dissipate the estate, causing irreparable loss and hardship. The fraudulent concealment of material facts and the misrepresentation used to obtain the grant constitute sufficient grounds for its revocation or annulment under the Law of Succession Act. The law demands that an estate be distributed equitably and without discrimination, ensuring that all beneficiaries receive their rightful share.
10. The application is not opposed and no submissions have been filed.

ANALYSIS AND DETERMINATION

11. I have read the application before this court.
12. **In Gideon Sitelu Konchellah vs. Julius Lekakeny Ole Sunkuli & 2 others [2018] eKLR** the Supreme Court of

Kenya held that: “...as a court of law, we have a duty in principle to look at what the application is about and what it seeks. It is not automatic that for any unopposed application, the Court will as a matter of course grant the sought orders. It behooves the Court to be satisfied that prima facie, with no objection, the application is meritorious and the prayers may be granted. The Court is under a duty to look at the application and without making any inferences on facts point out any points of law, such as any jurisdictional impediment, which might render the application a non-starter. We see no such jurisdictional issue in the application before us. Hence we have proceeded to consider the facts before us as against the jurisprudence for grant of stay orders set by this Court...”

13. I have read carefully the entire application and in particular the relationship between the Applicant and the deceased. The Applicant claims that the deceased was his father-in-law pursuant to his marriage to the late Mary Mukuhi Njoroge.
14. Consequently, he was filing this application as of his rights in the estate. Whereas he may have a point, I do not think he can agitate the rights of her late wife within her father's estate without first obtaining letters of administration over her estate. He remains a stranger in respect to his father in laws estate unless he shows otherwise.

15. Legally he is not a beneficiary and or dependant under Section 29 of the Law of Succession Act. He must therefore seek out letters of administration so that he can agitate any such right.
16. It is also worthy to note that the Applicant after the death of his wife married her sister Margaret Muthoni Njoroge who equally died on 9th June 2013 and by his protest dated 16th October 2023 seeks to inherit whatever her estate was entitled to within this estate.
17. In the premises I do not find the application merited for the above reasons, namely, the Applicant lack of capacity to agitate his wife's rights in the estate without grant of letters of administration.
18. **The application is otherwise dismissed.**
19. **While at it I note that the grant dated 26th June 2013 is yet to be confirmed. For whatever reasons I direct that the objection proceedings herein be fixed for hearing forthwith.**

**Dated signed and delivered at Nairobi via video link
this**

13th day of November 2025.

**H K CHEMITEI
JUDGE**

