



REPUBLIC OF KENYA



**In re Estate of Theresia Mukiki Wambua (Deceased) (Succession Cause
1712 of 2016) [2025] KEHC 16320 (KLR) (Family) (13 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16320 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

SUCCESSION CAUSE 1712 OF 2016

HK CHEMITEI, J

NOVEMBER 13, 2025

BETWEEN

WAMBUA RONALD MULINGE 1ST APPLICANT

VELIMA MUKIKI KAMBA 2ND APPLICANT

AND

LILLIAN WAYUA WAMBUA PETITIONER

AND

VELMA MUKIKI KIAMBA INTERESTED PARTY

RULING

1. This ruling relates to the applications dated 26th May, 2023 filed by the applicants, W R M and V M K.
2. W R M seeks for Orders That:-
 1. The following properties be included in the schedule of distribution of the estate of the deceased namely:-
 - a. Malili Ranch Limited Plot No. 502.
 - b. Malili Ranch Limited Plot No. 504.
 - c. Malili Ranch Limited Plot No. 1374.
 - d. Malili Ranch Limited Plot No. 2301.
 2. The Petitioner (L W W) be directed to file accounts of rents collected over the following properties since 21/07/2016 up to date:



- a. Plot No. Nairobi Block 76 of 310 (Buru Buru).
 - b. Plot NO. Ruiru/Block 13/461 (Githurai).
 - c. Plot No. 1374 Malili Ranch Limited (Malili).
 - d. Malili Ranch Limited Plot No. 502 (Malili).
 - e. Malili Ranch Limited Plot No. 504 (Malili).
3. The Petitioner (L W W) be directed to file statements of accounts for the following accounts since 21/07/2016 up to date:
- a. Housing Finance Shares CDS Number 0000000389692LI.
 - b. Housing Finance Bank Account No. 7190016826.
 - c. KCB Bank Account No. 1107254043.
 - d. Equity Bank Account No. 0470198702152.
 - e. Co – operative Bank Account No. 01100095505900
 - f. Safaricom MPESA No. 0722368838
4. Upon granting of prayers 1, 2 & 3 the confirmation/ distribution of the estate of the deceased made on 10/ 06/2022 be cancelled.
5. The costs of this application be paid by the Petitioner.
3. The application is based on the grounds thereof and supported by affidavit sworn by W R M on 26th May, 2023.
4. He avers inter alia that the deceased was his late mother, while the Petitioner is his sister. On 14th August, 2018, this Honourable Court issued a grant of letters of administration to the Petitioner, which was subsequently confirmed on 10th June, 2022. At the time of her death, the deceased was the registered owner of four plots within Malili Ranch Limited, namely Plot Nos. 502, 504, 1374 and 2301.
5. However, the Petitioner failed to include these four plots in the schedule of distribution presented during the confirmation of the grant. Specifically: Plot No. 1374 (Malili) is developed with a three-storey commercial and residential building, which was rented out to several tenants by the deceased prior to her demise. Plot No. Nairobi Block 76/310 (Buru Buru Phase 3, House No. 310) is developed with a two-bedroom residential house, also rented out by the deceased during her lifetime. Plot No. Ruiru/Block 13/461 (Githurai) comprises approximately ten residential units, which were let out by the deceased prior to her passing. Plot Nos. 502 and 504 (Malili) are open spaces, each of which the deceased had rented out for use as garages before her demise.
6. Since the deceased's death, the Petitioner has been collecting rent from all the above five properties to date. The rent proceeds form part of the estate of the deceased and should be distributed equitably among all beneficiaries. Despite his repeated requests, the Petitioner has neither disclosed the rental income received nor remitted any portion of it to him or the other beneficiaries.
7. In addition, the deceased held the following financial assets at various institutions: Housing Finance Shares – CDS No. 0000000389692L, Housing Finance Bank Account No. 7190016826, KCB Bank Account No. 1107254043. Equity Bank Account No. 0470198702152, Co-operative Bank Account No. 01100095505900 and Safaricom M-PESA Account No. 0722368838.



8. As the administrator of the deceased's estate, the Petitioner has access to all these accounts and records. However, despite numerous requests, she has refused to provide copies of the account statements or any details concerning the funds therein.
9. He has also established that the following properties - Malili Ranch Limited Plot Nos. 502, 504, 1374 and 2301 - are currently registered in the joint names of the Petitioner, L W W and his sister Caroline Wandia Mathews, as the proprietors thereof. At the time of the deceased's death, the said properties were registered in her sole name, as evidenced by the annexed search certificates. It is therefore evident that the transfers of these properties were effected after the deceased's demise, which constitutes intermeddling with the estate of the deceased contrary to the *Law of Succession Act*.
10. He accordingly prays that this Honourable Court orders an investigation into the said transfers by the Directorate of Criminal Investigations (DCI) and directs that a comprehensive report be filed in court on the findings of the investigation.
11. Further, since the confirmation of the grant, the Petitioner has failed to transfer the properties listed in the schedule of distribution to the rightful beneficiaries as required by law. The Petitioner, being the administrator, bears a legal obligation to render to this Honourable Court a full and accurate account of her administration of the estate.
12. From the foregoing, it is evident that the Petitioner has failed in her fiduciary and statutory duties as the administrator and has not administered the estate diligently, transparently, or in accordance with the *Law of Succession Act*.
13. V M K seeks for Orders That:-
 1. The 2nd interested party (V M K) and Angel Imani Kiamba (minor) and Nancy Mwikali Mutua be included as beneficiaries of the estate of the deceased.
 2. Upon granting of prayer (1) the confirmation of grant/ distribution of the estate of the deceased made on 10/06/2022 be cancelled.
 3. The costs of this application be paid by the Petitioner.
14. The application is based on the grounds thereof and supported by affidavit sworn by V M K on 26th May, 2023.
15. She avers inter alia that the deceased was her late grandmother, while the Petitioner is the sister to her late father. Angel Imani Kiamba, a minor born on 18th March, 2005, is her younger sister.
16. Their mother, Nancy Mwikali Mutua, was lawfully married to their late father at the time of his death. The late father is therefore entitled to an equal share of the deceased's estate alongside his siblings.
17. The two applications above are opposed vide replying affidavits sworn by L W W on 20th June, 2023.
18. She avers inter alia that the properties known as Malili Ranch Limited Plot Nos. 502, 504, 1374 and 2301 do not form part of the deceased's estate. They are held and managed under the Theresiah Mukiki Wambua Trust, established by a Trust Deed dated 4th May, 2015. Consequently, these properties are governed by the Trust and are not available for distribution as alleged by Wambua who has always been aware of this position and even consented to the confirmation of the grant and distribution of the estate as reflected in the confirmed schedule.
19. His current application is therefore malicious, misleading and an abuse of the court process. She has already requested records from the rent collection agent, accountant and bank statements from the



- respective financial institutions to enable her to file accurate accounts in relation to Plot No. Nairobi Block 76/310 (Buru Buru) and Plot No. Ruiru Block 14/461 (Githurai); and therefore, requires additional time to present a comprehensive report.
20. Further requests for statements have also been made to Housing Finance, KCB, Equity Bank, Co-operative Bank and Safaricom and responses from the relevant officers are still pending.
 21. The Applicant has not demonstrated any lawful basis for seeking to cancel the confirmed distribution. He has produced no evidence to justify his claims and his actions amount to a fishing expedition devoid of merit. Some of the rental units remain vacant for extended periods while others have defaulting tenants with rent arrears. A report from the property agent on this will be filed once received.
 22. It is also untrue that Wambua has been excluded from the estate. He has been receiving income from the deceased's properties monthly and funds from the estate have been used to pay school fees for his three children and to meet his family's living expenses. Despite this, he has been harassing, threatening and intimidating tenants residing at Malili Plot No. 1374, causing disturbance and distress.
 23. The tenants lodged a report at Malili Police Station, recorded under OB No. 04/27/05/2023. She therefore requests the court to direct Wambua to cease harassing, insulting, threatening or making demands to tenants at Malili Plot No. 1374.
 24. Additionally, Wambua's son, Gerald Matata Mulinge, has forcibly occupied the property known as Plot No. 1233 Aimi Ma Kilungu without the consent of the other beneficiaries and has threatened estate workers and unlawfully disposed of family property. She accordingly petitions the court to order Gerald Matata Mulinge to vacate the property immediately pending an agreement among the beneficiaries on its occupation or distribution.
 25. His attempt to annul the confirmed grant is a calculated effort to destabilize and delay the administration of the estate. His allegations that she has refused to share account statements are baseless, as this is the first instance, he has made such a request and no evidence of prior demand has been produced.
 26. Contrary to his allegations, Wambua unilaterally disposed of property known as Nduluni Plot to a third party, without the knowledge or consent of the other beneficiaries, and retained the proceeds. She therefore requests that the court compels him to reverse the sale and restore the property to the estate. Wambua has also been harvesting and selling produce from Nduluni and Mikuyu farms, both belonging to the deceased, without accounting or sharing proceeds. She seeks an order directing Wambua to produce a full account of all proceeds from the farms between 21st July, 2016 and the present, and to deposit the same in court for equitable distribution among beneficiaries.
 27. She further questions whether the present application was filed with the knowledge and consent of Velma, given that Velma has exhibited instability in her conduct and has disappeared on multiple occasions, the last being in 2022, when she was reported missing and her whereabouts remain unknown. She intends to request that Velma appear before the court for the hearing and determination of her application for confirmation.
 28. She avers also that Velma, Angel and Nancy have not obtained a grant of representation for the estate of the late Lawrence Kiamba Wambua, and therefore lack legal standing to seek the present orders. Until such representation is obtained, they cannot claim or administer any share in the estate of Theresiah Mukiki Wambua.



29. Nancy had previously informed the deceased that she was not married to the late Lawrence Kiamba Wambua at the time of his death. In fact, the deceased was lawfully married to Ashura Kiamba, with whom he had a daughter, Abigael Kiamba, both residing in Dar es Salaam, Tanzania.
30. She acknowledges Velma and Angel as her nieces and confirms that since 2016, the estate has supported their education and upkeep, paying school fees for Velma at Alliance High School, Nduluni Secondary School and Daystar University; and for Angel at Mary Leakey Girls High School and St. George's Girls High School. The estate has prioritized the education of the deceased's grandchildren, making disbursements based on school invoices and fee structures provided by their mother, Nancy. However, no further educational requests have been made since 2020.
31. She emphasizes the need to institute proceedings relating to the estate of Lawrence Kiamba Wambua, to enable the court to determine who is legally entitled to represent that estate or hold a beneficial interest in the estate of Theresiah Mukiki Wambua. None of the properties of the deceased's estate have been distributed and all proceeds from the estate have been shared equitably among the beneficiaries, with priority given to educational expenses where necessary.
32. The 1st and 2nd interested parties have filed written submissions dated 12th May, 2025 placing reliance on the following:
 - a. Juletabi African Adventure Limited & Another vs Christopher Michael Lockley [2017] KECA 118 (KLR) where it was held as follows: "It is settled that the onus lies on a party relying on the existence of a trust to prove it through evidence. That is because: - "The law never implies, the court never presumes, a trust, but in case of absolute necessity. The courts will not imply a trust save in order to give effect to the intentions of the parties."
 - b. In re Estate of Benson Maingi Mulwa (Deceased) [2021] KEHC 6181 (KLR) where it was held as follows: "In my view since intermeddling can be committed even by administrators, any person interested in the state of a deceased person as a beneficiary or otherwise is properly entitled to move the court and seek orders intended to preserve the estate. It is therefore not mandatory that such an application be made by the administrators or with consent or authority of the other beneficiaries since a beneficiary is properly entitled to protect his or her interest in the estate."
33. The Petitioner has filed written submissions dated 30th September, 2025 placing reliance on the following:-
 - c. In re Estate of Prisca Ong'ayo Nande (Deceased) [2020] KEHC 6553 (KLR) where it was stated as follows: "Section 76 of the [Law of Succession Act](#) has nothing to do with confirmation of grants. It carries no provisions which relate to what a court should do with confirmation orders or certificates of confirmation of grant. Indeed, the provision says nothing about the powers prescribed in it being used for the purpose of the court intervening in the confirmation process, once orders are made on a confirmation application. The only connection between confirmation of grants and revocation of grant is that set out in section 76 (d) (i) of the [Law of Succession Act](#). It has nothing to do with a grant having been confirmed, rather it deals with situations where a personal representative or holder of a grant or administrator has failed to apply for confirmation of their grant. Section 76 of the Act relates to confirmation of grants to that very limited extent, not with confirmation itself, but the failure to apply for confirmation. A person who is aggrieved by the orders made with respect to a confirmation application, which are encapsulated in the certificate of confirmation of grant, has no remedy under section 76 of the [Law of Succession Act](#), for that provision does not envisage revocation of certificates



of confirmation of grants. I have very closely perused through the provisions of the [Law of Succession Act](#), and I have not come across any provision that provides a remedy to a person who is aggrieved by confirmation orders. Section 71, 72 and 73 of the [Law of Succession Act](#), which deal with confirmation of grants, do not address the question of redress for parties who are unhappy with the confirmation process, not do they deal generally with flaws in the confirmation process. As stated above, section 76 has nothing to do with the confirmation process, and provides no relief at all to any person unhappy with the confirmation process. In the absence of any provision in the [Law of Succession Act](#), for relief or redress for persons aggrieved by such orders, the aggrieved parties have only two recourses under general civil law, that is to say appeal and review, to the extent that the same is permissible under the [Law of Succession Act](#). I would believe that one cannot also apply for the setting aside or vacating of confirmation orders, where the same are obtained through abuse of procedure. I reiterate that the power of discretion granted to the court by section 76 of the [Law of Succession Act](#) is for revocation of grants. The application that I am tasked with determining does not carry or contain a single prayer for revocation of the grant made herein to the administrator. I doubt, therefore, whether I should go ahead to invoke the power to revoke the grant when there is no prayer for it. A party is bound by its pleadings, and the court only decided a matter based on the pleadings before it. Affidavit and oral evidence is intended to breathe life to the pleadings. For life to be successfully breathed into the suit or cause or application, to enable the court grant the orders sought or meet the prayers made, the evidence tendered must be in sync with the pleadings. The heading of the application purports it to be an application for revocation of grant, but there is no prayer for revocation of the grant, the evidence placed on record targeted the confirmation process, not the revocation of the grant. Clearly, therefore, there is no proper application before me for revocation of the grant of letters of administration intestate in this matter.”

Analysis And Determination

34. I have read the applications carefully the responses thereto as well as the written submissions before this court.
35. What is obvious is the fact that the grant dated 10th June 2022 directed that the properties be vested in the joint names of Caroline Wandia Mathews, Lilian Wayua Wambua and Ronald Mulinge Wambua. The same is still subsisting.
36. There is no evidence that under section 83(e) of the Act, the estate has been distributed to the right beneficiaries and that is why the applicants have filed the current applications. There is no such full inventory which ordinarily ought to be filed six months after the grant has been confirmed.
37. At the same time there is no evidence that the Respondent/administrator has provided accounts as required by law. The reasons given, namely, that she was still getting some details from the banks holding the accounts is too pedestrian in the circumstances. I state so because being a holder of the grant qualifies her to get whatever she needed from any institution. It is only the prompting of this application that has jolted her.
38. As regards the four Malili plots there is no evidence that they did not belong to the deceased. Although they are now allegedly registered under the Respondent’s name and her sister, there is no evidence of how it was done.
39. At the same time there is no evidence that the deceased registered them under any trust and if so, the Respondent did not produce evidence of such a trust.



40. It is imperative that the management of Malili ranch does produce official records of the same indicating the entire past and current registration history.
41. I also do not find the application to provide accounts by the Respondent a flimsy reason. If the premises have been bringing some rental income whether intermittent or not then the Respondent has a fiduciary duty to supply the same to the beneficiaries. This will include whatever expenses incurred in favour of the applicants and or other interested parties.
42. As regards the interested parties Velma Kiamba, Angel Kiamba and Nancy Mwikali Mutua who have sued on behalf of the estate of their late father and a son to the deceased Lawrence Kiamba Wambua, I'm in agreement with the Respondent that they ought to have obtained letters of administration over his estate first before filing the application. In other words, they have no locus standi.
43. This is also necessary as the Respondent has further challenged the application by bringing in a twist to it when she introduced another family of the said deceased, Lawrence, one Ashura Betty from Tanzania.
44. With the two rival families it is imperative that they must first obtain the necessary letters of administration over his estate so that they could agitate their rights.
45. The Respondent has said much concerning the intermeddling of the estate by the applicant including blocking some tenants from accessing the premises as well as disposing some of the properties without her knowledge.
46. The above allegations shall remain allegations unless backed by tangible evidence. In any case being the administrator ought to have jolted her into protecting the estate. She failed to utilise her powers which included prosecuting any intermeddler.
47. This issue arose because of the applicant's application demanding accountability over the estate.
48. I do not find it efficacious for now to cancel the grant but I shall allow the administrator /Respondent to effect the same forthwith and to provide the accounts of that which she had been doing to date.
49. It is therefore directed as follows:-
 - (a) The application dated 26th May 2023 by V M K is hereby struck out with no order as to costs.
 - (b) The management of Malili Ranch limited shall within 30 days from the date herein provide to the parties and this court the full and historical registration to date of the following properties, namely, Malili Ranch Plot numbers 502, 504, 1374 and 2301 respectively.
 - (c) The Administrator/Respondent shall within 30 days from the date herein provide accounts to this court with effect from 14th August 2018 to date on all the properties namely Nairobi Block 76/310, Buruburu, Githurai plot number Ruiru/Block 13/461, plot number 1374, 502 and 504 Malili ranch respectively, and Accounts at the following financial institutions, HFCK SHARES, HFCK account number 7190016826, KCB account number 1107254043, Equity Bank account number 0470198702152, Cooperative bank account number 01100095505900 and Safaricom Mpesa no 0722 368838, respectively.
 - (d) For avoidance of any doubt the responded shall execute the grant dated 10th May 2022 forthwith and not later than 90 days from the date herein.
 - (e) Costs shall be in the cause.

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAIROBI THIS



13TH DAY OF NOVEMBER 2025.

H K CHEMITEI

JUDGE

