



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI MILIMANI
FAMILY DIVISION
SUCCESSION CAUSE NO. 2252 OF 2004
IN THE MATTER OF THE ESTATE OF GREGORY NDAMBUKI
MUOKI (DECEASED)
RULING

1. This Application ought not to have been filed.
2. Before this Honourable Court is the Summons for Removal of a Deceased Administrator dated 5th November 2025. The applicants pray for the following orders:
 - a) **THAT** the name of MARIA NDUMBA NDAMBUKI be removed from Grant of letters of Administration issued on the 3rd July 2023 in respect of the estate of GREGORY NDAMBUKI MUOKI who died on the 30th December 1997.
 - b) **THAT** upon removal, the surviving administrators namely SUSANAH MBULI NDAMBUKI, SILVANUS KIENDI NDAMBUKI and SHEILA MWIKALI KASYIMA do continue to administer the estate in accordance with the law of Succession Act, Cap160, Laws of Kenya.
 - c) **THAT** an amended grant do issue reflecting the removal of the deceased administrator's name, MARIA NDUMBA NDAMBUKI

d) **THAT** costs of the application be in the cause

3. The Application was based on SILVANUS KIENDI NDAMBUKI'S affidavit sworn on even date. He deposed that the said MARIA NDUMBA NDAMBUKI died on 23rd September 2024, and the application seeks for her name to be formally removed from the grant to enable the surviving administrators to continue administering the estate lawfully. The Death Certificate to that effect was annexed; however, the consent from the other administrators has not been provided.

DETERMINATION

4. The circumstances herein are expressly addressed by Section 81 of the Law of Succession Act, which provides:

“81. Powers and duties of personal representatives to vest in survivor on death of one of them

Upon the death of one or more of several executors or administrators to whom a grant of representation has been made, all the powers and duties of the executors or administrators shall become vested in the survivors or survivor of them:

Provided that, where there has been a grant of letters of administration which involve any continuing trust, a sole surviving administrator who is not a trust corporation shall have no power to do any act or thing in respect of such trust until the court has made a further grant to one or more persons jointly with him.”

This provision is self-explanatory and provides the legal basis for the surviving administrators to continue their

5. Accordingly, the present application for which this Ruling is delivered should not have been filed. The surviving administrators are by operation of law empowered to proceed with the administration as is. The proper procedural mechanism to update the court record following the death of an administrator is through an application for rectification of grant under Section 74 of the Law of Succession Act and Rule 43(1) of the Probate and Administration rules.
6. It is also trite law this Court is clothed under Rule 73 of the Probate and Administration Rules with jurisdiction to issue orders that will meet the end of justice. That Rule provides that:

“73. Saving of inherent powers of court
Nothing in these Rules shall limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.”
7. The upshot is that the Summons for Removal of a Deceased Administrator dated 5th November 2025 is allowed. A fresh certificate of confirmation of grant containing the remaining administrators shall forthwith issue

It is so ordered.

DATED and **DELIVERED** at **NAIROBI** this 4th day of December

E. K. OGOLA
JUDGE

In the presence of:

**Mr. Gekonge..... for the
Petitioner.**

Gisiele..... Court Assistant

ORIGINAL