



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI
FAMILY DIVISION
SUCCESSION CAUSE NO. 1300 OF 2017
IN THE MATTER OF THE ESTATE OF WILLIAM GATUHI
MURATHE ALSO KNOWN AS WILLIAM G. MURATHE ALSO
KNOWN AS W. G. MURATHE (DECEASED)

RACHEL MWIHAKI GATABAKI.....1ST
APPLICANT

MARGARET WANJIRU EKIRAPA.....2ND
APPLICANT

VERSUS

MERCY WAMBUI
GATUHI.....RESPONDENT

RULING

1. The Applicants have filed a Summons dated 8th September 2025 and they seek the following orders:

(1) That this Honourable Court be pleased to issue an Order directing that full and comprehensive statements of accounts be provided by the following banks regarding the listed accounts from the date of the deceased demise, 7th April 2021 to when the accounts were purportedly closed:

(a) Barclays Bank Thika Branch - Accounts Numbers

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0311121146 and 0311121154; and

(b) Bank of Baroda, Thika Branch-Account Number
95840100002445; and

- (2) That the Administrators of the Estate be compelled to provide comprehensive bank statements of the consolidated Estate Account opened at Barclays Bank - Thika Branch;
 - (3) That this Honourable Court be pleased to make such further orders as the interest of justice may require; and
 - (4) That the costs of this Application be provided for.
2. The Summons is based on Rachel Mwhaki Gatabaki and Margaret Wanjiru Ekirapa's Affidavit in support of Summons sworn on the same date.
 3. The Respondent has filed a Replying Affidavit sworn by Mercy Wambui Gatuhi on her own behalf as an Administrator and on behalf of two other administrators namely George Kuria Murathe and Naomi Nyambura Gatuhi in opposition.

DETERMINATION

4. Having considered the entirety of the Applicants' Summons, the Grounds therein, the Applicant's Affidavit in Support of Summons and the annexed documents therein

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2017 and also having considered the entirety of the Respondent's Replying Affidavit and the annexed documents therein, I opine as hereunder.

5. The applicants in this matter have come to this court seeking the orders prayed for by way of Summons but they do not identify any enabling provisions of law for that purpose.

6. The Jurisdiction of this Court in Applications brought under the Law of Succession Act is trite and provided for in Section 47 of the said Act which is reproduced:

“The High Court shall have jurisdiction to entertain any application and determine any dispute under this Act and to pronounce such decrees and make such orders therein as may be expedient:...”

7. Section 83(h) of the Law of Succession also provides that:

“83. Duties of personal representatives

Personal representatives shall have the following duties

—

...

(h) to produce to the court, if required by the court, either of its own motion or on the application of any interested party in the estate, a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;...”

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8²⁰¹⁷ Rule 25(5) of the Probate and Administration Rules also makes further provisions in this regard that:

“25. Signing, sealing and issue of grants

...

(5) The court after the making of a grant may at any time and from time to time require the personal representative to render to the court a true account of the estate of the deceased and of his administration of it....”

9. There is no doubt whatsoever that the court is clothed with the power to render the orders sought. The belying question is whether the cited Bank Accounts being, Barclays Bank Thika Branch - Accounts Numbers 0311121146 and 0311121154, and Bank of Baroda, Thika Branch-Account Number 95840100002445, exist, and if they do, whether they form part of the Estate of the Deceased.
10. The Applicants provide no evidence of the existence of the Bank Accounts or that they form part of the Estate of the Deceased. The Respondent on the other hand states that the Bank Accounts were “wound up/closed” and/or “no longer exist” but fails to answer the question on whether they form, or formed, part of the Estate of the Deceased.
11. The Assets and Liabilities that form part of the Estate of the Deceased are usually contained in Form 5, known as the Affidavit in Support of Petition for Letters of Administration

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12. In this matter, that Affidavit was sworn by: Mercy Wambui Gatuhi, being the Respondent herein; David Wakairu Murathe; George Kuria Murathe; and Naomi Nyambura Gatuhi, being the two other administrators on behalf of whom the Replying Affidavit was sworn, on 24th January 2018 and filed in court together with the Petition for Letters of Administration Intestate on 6th February 2018.
13. Moreover, Rachel M. Gatabaki, the 1st Applicant herein, Margaret Wanjiru Ekirapa, the 2nd Applicant herein, Elizabeth Mwhaki Gatuhi and Peter Murathe Gatuhi all signed Consents to the said Petition for Letters of Administration Intestate dated 25th January 2018 and filed in Court on 6th February 2018.
14. There are thirty-four (34) listed immovable assets, nineteen (19) listed movable assets and one (1) listed liability. None of them are the Bank Accounts in question and it is on that basis that the Grant of Letters of Administration Intestate were issued to the Administrators in this matter. Both Applicants and other beneficiaries to this Estate signed off on that characterization of the Assets and Liabilities of the Deceased.
15. Additionally, this matter has gone so far as the Confirmation of Partial Grant dated 30th July 2024 and rectified on 3rd April. I note that a substantial part of the Estate has already

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2017 been earmarked for distribution. I invite the parties to proceed with the Confirmation for the residual part of the Estate.

16. It is trite that this Court is clothed under Rule 73 of the Probate and Administration Rules with jurisdiction to issue orders that Will meet the ends of justice. That Rule provides that:

“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.”

17. The Respondent acknowledges the existence of “the estate account from whence [the beneficiaries] have been receiving provisions.” For utmost transparency, the Court invokes its authority under Section 83(h) of the Law of Succession Act and grants prayer 1 and 2 of the Summons. In any event no party will suffer any prejudice if the accounts and bank statements are provided

18. This being a family matter, each party shall bear their own costs.

19. The upshot is that the Summons dated 8th September 2025 is partially allowed in terms of prayer (No. 1 and 2). The Administrators of the Estate to provide the Applicants with comprehensive bank statements of the consolidated Estate Account opened at Barclays Bank - Thika Branch from the

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2017 date of opening of the Bank Account to the date of delivery
of this Ruling within fourteen (14) days.

It is so ordered.

DATED and DELIVERED at NAIROBI this 4th day of December, 2025.

E. K. OGOLA
JUDGE

In the presence of:

**Mr. Ndirangu..... for the
Applicants**

**Mr. Ndung holding brief m/s Odiye for..... for the
Administrators**

**M/s Ochole holding brief Mwende..... for 3
Children**

**Gisiele..... Court
Assistant**