



REPUBLIC OF KENYA



**In re Estate of Githua Murinda (Deceased) (Succession Cause E061 of 2025)
[2025] KEHC 18277 (KLR) (Family) (1 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18277 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE E061 OF 2025
CJ KENDAGOR, J
DECEMBER 1, 2025
IN THE MATTER OF THE ESTATE OF GITHUA MURINDA
(DECEASED)**

BETWEEN

JOSEPH KIREGA GITHUA PETITIONER

AND

MONICAH WABIRI GITHUA 1ST OBJECTOR

PETER KINYANJUI GITHUA 2ND OBJECTOR

FRANCIS MUTHONDEKI GITHUA 3RD OBJECTOR

RULING

1. Joseph Kirega Githua (Petitioner) filed this succession cause relating to the estate of Githua Murinda (deceased), who is his father.
2. Before the Grant was issued, his stepsister and brothers; Monicah Wabiri Githua, Peter Kinyanjui Githua, and Francis Muthondeki Githua, filed an objection to the issuance of the Grant.
3. The gist of the objection is that the Petitioner did not involve them in filing for the Grant, included a property that does not form part of the estate and also failed to include that the deceased was a polygamous man, thereby omitting their mother's name in the petition.
4. The objection was canvassed by way of affidavits and submissions, which I have duly considered. The matter for determination is whether to uphold the objection and, if so, what orders the court may issue concerning the estate.



5. It is not in dispute that the parties presently before the Court are related. They are the children of the deceased Githua Murinda.
6. I have reviewed the petition, the Petitioner, even though he indicated all the children of the deceased, did not indicate that the deceased was polygamous and thus omitted the name of the Objectors' mother, Ruth Wagikuyu Githua (deceased).
7. I have also confirmed that not all beneficiaries signed the consents.
8. The parties appearing before the Court are of equal priority regarding the application for the Grant, as they are both the deceased's children. There is a consent signed by the Petitioner's mother by way of a thumbprint, which is accepted as duly executed unless she challenges the same. There is, however, evidence of disagreement among the children on who should administer the estate, each party accusing the other of acting in bad faith.
9. While the Petitioner claims he consulted the Objectors, there is no proof that deliberations were held or that invitations were sent to all beneficiaries from both houses for the meetings purportedly related to the estate's administration.
10. The substantive law on objections to the making of a Grant is contained in Sections 68 and 69 of the *Law of Succession Act*, while the procedure is found in Rule 17 of the Probate and Administration Rules.
11. Sections 68 and 69 provides:
 - “68(1) Notice of any objection to an application for a grant of representation shall be lodged with the court, in such form as may be prescribed, within the period specified by the notice, or such longer period as the court may allow.
 - (2) Where notice of objection has been lodged under subsection (1) the court shall give notice to the objector to file an answer to the application and a cross-application within a specified period.
 - 69(1) Where a notice of objection has been lodged under subsection (1) of Section 68, but no answer or cross-application has been filed as required under subsection (2) of that Section, a grant may be made in accordance with the original application.
 - (2) Where an answer and cross application have been filed under subsection (2) of Section 68, the court shall proceed to determine the dispute.
12. From the above, a notice of objection is lodged with an answer or cross-application; failure to do so may result in a Grant being made in accordance with the original application. The answer to the petition is filed by the 2nd Objector. There is no cross-application.
13. The objection and the answer to the petition raise valid grounds on the issue of lack of evidence to support the involvement of the Objectors who have an equal priority, failure to disclose the deceased's marital status, which is polygamous, and thus omitting the name of the Objector's mother.
14. The other grounds concerning the inclusion of grandchildren as dependants are issues that cannot be resolved at this stage, alongside the question of whether the property Dandora Phase 4 Plot – Nairobi/ Block 188/677 is part of the estate or not.



15. There is no cross-application, and the Objectors have not indicated that they wish to take out letters of administration. After examining Section 69 (1) and the discretionary authority it grants the Court, I refrain from dismissing the petition outright. Instead, the Court will withhold the issuance of the Grant solely in the Petitioner's name.
16. To foster collaboration, the parties are afforded an opportunity to mutually agree upon administrators from each side (house). I find the matter suitable for referral to Court Annexed Mediation. If the parties fail to reach an agreement, the Court will then decide on the administrators to oversee the administration of the estate and thereafter issue directions as it may deem just and for expediency.
17. The costs of the application shall be in the cause.
18. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS
ONLINE PLATFORM ON THIS 1ST DAY OF DECEMBER, 2025.**

.....

C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Mr. Koira, Advocate for the Petitioner

Mr. Aduda, Advocate for the Objectors

