



REPUBLIC OF KENYA



**In re Estate of Amritlal Jivraj Shah (Deceased) (Succession Cause 2441 of 1997)
[2025] KEHC 18934 (KLR) (Family) (16 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18934 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 2441 OF 1997
CJ KENDAGOR, J
DECEMBER 16, 2025
IN THE MATTER OF THE ESTATE OF AMRITLAL JIVRAJ SHAH (DECEASED)**

BETWEEN

HEENA AMRITLAL SHAH APPLICANT

AND

MUKTA AMRITLAL 1ST RESPONDENT

BHARAT JIVRAJ SHAH 2ND RESPONDENT

AND

MINAKUMARI BHARAT SHAH INTERESTED PARTY

RULING

1. This Succession Cause relates to the Estate of Amritlal Jivraj Shah who died on 19th September, 1997.
2. A Grant of Probate with Written Will was issued to Mukta Amritlal Shah on 20th February 1998. The grant has not been confirmed.
3. The deceased was survived by Mukta Amritlal Shah, Heena Amritlal Shah and the late Amar Amritlal Jivraj Shah.
4. The matter is presently before the Court in relation to an application dated 18th September, 2025 filed by Heena Amritlal Shah, a daughter of the deceased. The 1st respondent is the administrator/executrix and the wife of the deceased. The 2nd Respondent is the deceased's brother, who was named as a trustee in the Will. The party referred to in the application as an interested party is the 2nd Respondent's wife, who was also named as a trustee in the Will. From the Will, the appointment of trustees was conditional and was to take effect if the 1st respondent did not survive the deceased.



5. The application seeks the following orders;
- i. That a preservation (freezing) order do issue restraining the 1st Respondent, Mukta Amritlal Shah, her agents, servants, or any person acting on her behalf, from withdrawing, transferring, disposing of, or in any way dealing with funds held in Account No. 0XXXXXXXXXXXX82 at Baroda, KRA Pin A0XXXXXXXXXZ, Alien Card No. XXXXX8, Passport Number 5XXXXXXXX9 and all other Dollar and Pound bank accounts held by the 1st Respondent, pending the hearing and determination of this Succession Cause.
 - ii. That the Central Bank of Kenya (CBK) be directed to circulate this Court's freezing order to all licensed banks and financial institutions in Kenya, requiring them to search for and freeze any and all bank accounts held in the name of the 1st Respondent, Mukta Amritlal Shah, KRA PIN A0XXXXXXXXXZ, Alien Card No. XXXXX8, Passport No. 5XXXXXXXX9 pending the hearing and determination of this cause.
 - iii. That the Central Bank of Kenya (CBK) be directed to circulate this Court's freezing order to all licensed banks and financial institutions in Kenya, requiring them to search for and freeze any and all bank accounts held in the name of the 2nd Respondent, Bharat Jivraj Shah, National ID No. XXXXX, KRA PIN AXXXXXXXXXC, pending the hearing and determination of this cause.
 - iv. That the Central Bank of Kenya (CBK) be directed to circulate this Court's freezing order to all licensed banks and financial institutions in Kenya, requiring them to search for and freeze any and all bank accounts held in the name of the Interested Party, Minakumari Bharat Shah, National ID No. XXXXX, KRA PIN AXXXXXXXX08B, pending the hearing and determination of the case.
 - v. That in the interim, the above orders do operate ex parte so as to preserve the estate assets before the Respondents and the Interested Party can dissipate them.
 - vi. That the Central Bank of Kenya (CBK) and/or the concerned banks be directed to file disclosure report within fourteen (14) days, listing any accounts identified in the names of the Respondents and the Interested Party in the Kenya Shillings accounts, Euro accounts & USD Dollar accounts in the following banks but not limited to: a) ABSA Bank Kenya PLC, b) Paramount Bank Kenya, c) I & M Bank Group, Kenya, d) Bank of Baroda e) Stanbic Bank f) Kenya Commercial Bank.
 - vii. That a restriction be placed on land properties LR NO. 209/217/11 (No. 3 Crescent road) and LR NO. 209/135/242 (Kirinyaga Road CBD) to prevent further dealings in the suit parcels.
 - viii. That a preservation (freezing order) do issue restraining the 1st Respondent Multta Amritlal Shah her agents, servants or any other person acting on her behalf from withdrawing, transferring, disposing off or in any way dealing with funds held at Goldstar Insurance services Limited pending the hearing and determination of this succession cause.
 - ix. That the costs of this Application be provided for.
6. The application is supported by an affidavit of even date and a supplementary affidavit dated 24th October, 2025.
7. The application is opposed. The 1st Respondent submitted a replying affidavit dated 13th October, 2025, the 2nd Respondent's replying affidavit is dated 13th October, 2025 and the interested party's replying affidavit is similarly dated 13th October, 2025.



8. There is also a replying affidavit from Sushila Shah, the deceased's (Late Amritlal Jivraj Shah) sister, in which she avers that the deceased sent her the original Will for safekeeping with the utmost confidentiality. She avers that the Will was never tampered with and that she handed it over to the deceased's wife upon his demise.
9. The Applicant and the 1st respondent filed submissions.
10. The 1st Respondent also filed a notice of Preliminary Objection dated 13th October, 2025 in which she contested the joinder of the 2nd Respondent and the interested party without leave of the Court.

The Applicant's case

11. The Applicant asserts that the executrix (1st Respondent) has neglected her duty for over 28 years by failing to provide a proper account of the estate. She further argues that the Respondents and the Interested Party have unlawfully interfered with the estate by transferring its assets to themselves and others.
12. She also accused the 2nd Respondent of threatening to evict her from her home (LR. NO 209/217/1 No. 3 Crescent Road) without notice.
13. The Applicant argues that because of these actions, the estate's assets are at risk of being further depleted, prompting the need for court preservation orders.
14. The Applicant further disputes the Will that appointed the 1st Respondent as an executrix.

The 1st respondent's case

15. The 1st Respondent asserts that she was appointed as the sole executrix and argues that it is the Applicant who has frustrated the confirmation of the Grant.
16. According to the 1st Respondent, the Will presented is genuine, and she termed the Applicant's insinuation as false.
17. She stated that granting the orders freezing her accounts would cause her hardship, as they are her sole accounts and those in joint names were vested in her upon his demise.
18. Regarding the property LR No. 209/2177/1, she stated that the same was jointly owned by her late husband, the 2nd Respondent and their late mother. She stated that the property was transferred to the 2nd Respondent after both the deceased and their mother passed away. Additionally, she stated that the Applicant has been in exclusive occupation of the property since their moving out, due to the applicant's aggressive behaviour.
19. The 2nd Respondent and the interested party challenge their joinder in the matter and deny the allegations of intermeddling.

Analysis and determination

20. The Applicant has invoked Section 45 and Section 47 of the *Law of Succession Act* and Rule 73 of the Probate and Administration Rules. Section 45 prohibits intermeddling with a deceased's property, while Section 47 grants the High Court broad jurisdiction to handle all succession matters, applications, and disputes. At the same time, Rule 73 of the Probate and Administration Rules empowers the Court to use its inherent powers to make necessary orders (like injunctions) to ensure justice and efficient estate administration



21. The issues that present for determination as raised by the parties in the submission are as follows;
 - i. Whether the validity of the Will can be challenged through the present application;
 - ii. Whether the joinder of the 2nd respondent and the interested party is proper;
 - iii. Whether the applicant has made a case for the grant of the injunctive reliefs sought; and
 - iv. What further orders should the court issue regarding this succession case to ensure justice and efficient estate administration?

Whether the validity of the Will can be examined through the present application;

22. The Applicant argues that the Will is a forgery and relies on a report she obtained on her own volition to establish its authenticity. The 1st Respondent, on the other hand, also argues that the Will is genuine and relies on a report she obtained herself.
23. There is no application filed that seeks revocation of the Grant that was issued to the 1st respondent. The process of challenging the Will is initiated when an interested party files a formal objection before the grant is issued or an application for revocation of the Grant, thereby commencing contentious probate proceedings. During the hearing, the court evaluates evidence, including witness testimony and expert opinions, to determine the Will's validity in accordance with the legal requirements set out in the *Law of Succession Act*.
24. No objections were raised against the issuance of the grant. Additionally, the current application does not in any of its prayers ask the Court to evaluate the validity of the Will, nor is there any application for revocation of the Grant on the ground that the Will is invalid
25. The Court must be moved appropriately for it to examine the validity or otherwise of the Will, and for the hearing process to be initiated.

Whether the joinder of the 2nd Respondent and the interested party is proper;

26. The 2nd Respondent is the deceased's brother, who was named as a trustee in the Will. The party referred to in the application as an interested party is the 2nd Respondent's wife, who was also named as a trustee in the Will. From the Will, the appointment of trustees was conditional and was to take effect if the 1st Respondent did not survive the deceased.
27. The two are therefore not beneficiaries, and neither are they administrators.
28. The nexus of the 1st Respondent has been explained that he has claimed an interest in one of the properties that the applicant has stated constitutes the estate of the deceased – LR 209/2177/1 on Crescent Road.
29. The purpose of enjoining an interested party to proceedings is to ensure that all persons who may be affected by the outcome of a case have an opportunity to be heard in accordance with the rules of natural justice.
30. The issue of joinder of parties was examined in *In re Estate of David Aura Wesonga (Deceased (Succession Cause 257 of 2012) [2023] KEHC 20222 (KLR)*, where Musyoka, J. held as follows;

“The *Law of Succession Act*, cap 160, Laws of Kenya, and the Probate and Administration Rules do not provide for joinder of interested parties. That would leave room for whoever seeks intervention in a probate matter to just file their application, without seeking leave to



be added as a party. There are no parties in a succession cause, for such cause is not a suit in the same vein with the suits envisaged in the *Civil Procedure Act* and the Civil Procedure Rules. I see no reason to grant the prayers sought in the application, dated May 15, 2023, because it is needless. Let the applicant file whatever application that he has in mind, the court shall deal with it on its own merits.”

31. The Applicant has submitted that the orders she seeks are orders prohibiting intermeddling. Section 45 of the *Law of Succession Act* provides that no person shall, for any purpose, take possession of, dispose of, or otherwise intermeddle with any free property of a deceased person without legal authority.
32. In the present case, thus, there was no need for leave to have the respondents/interested party as respondents to the application. The Applicant has established a nexus between the reliefs sought, the Respondents and the interested party.
33. Order 1 of the Civil Procedure Rules, which addresses issues of misjoinder and non-joinder, as well as the substitution and addition of parties, is not included in the provisions applicable to succession matters under Rule 63 of the Probate and Administration Rules.
34. The main consideration when evaluating the inclusion of a party in succession proceedings is whether the cause of action related to that party falls within the jurisdiction of the succession court. Additionally, there must be a connection between the party’s actions and the estate. Their inclusion should also not be vexatious or an abuse of the Court process.

Whether the applicant has made a case for the grant of the injunctive reliefs sought;

35. The Applicant has broadly generalized the bank account freezing orders.
36. The Applicant has further asked that the Central Bank of Kenya (CBK) be directed to circulate the freezing orders to all licensed banks and financial institutions in Kenya, requiring them to search for and freeze any and all bank accounts held in the name of the Respondents and the interested party.
37. There is no evidence of any transfers from the estate-held accounts.
38. I agree with the Respondents’ argument that the court should not freeze their personal accounts, particularly given that the applicant has failed to establish the direct connection between those accounts and the estate in question.
39. Without substantial evidence linking the Respondents’ personal accounts to the estate, such action would not only be unjust but could also violate their rights if the restrictive measures are arbitrary.
40. There is also no evidence of a transfer of shares.
41. Regarding the immovable assets, I note that the parties acknowledge that the Applicant is in occupation of the main parcel that is in dispute. The verification of the issues raised surrounding the parcel, specifically whether it is part of the estate, is best addressed through the summons for confirmation of the Grant. The matter requires extensive examination beyond what has been presented in the application.
42. Furthermore, there are other ways to register any restrictions in the meantime.
43. What orders should the court then issue regarding this succession case to ensure justice and efficient estate administration?
44. The Court has considered the application and is not satisfied that the circumstances warrant the issuance of the orders sought. The application is dismissed with no order as to costs.



45. However, the Court is mindful of the need to expedite the distribution of the estate and therefore directs that the Administrator shall, within 45 days from the date of this order, apply for the confirmation of the grant/distribution of the estate.
46. In the meantime, the parties are at liberty to file any other application as may be necessary.
47. The matter shall be mentioned on 23rd March, 2026 to confirm compliance and to take further directions.
48. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS
ONLINE PLATFORM ON THIS 16TH DAY OF DECEMBER, 2025.**

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Mr. Githaiga, Advocate holding brief for Ms. Mati, Advocate for the Respondent

Ms. Heena Shah - Applicant

