



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**FAMILY DIVISION**  
**SUCCESSION CAUSE NO. 2187 OF 2014**  
**IN THE MATTER THE ESTATE OF JANE WANGARI**  
**(DECEASED)**

**STEPHEN NGUNYI WAMUHU .....**  
**APPLICANT**

**RULING**

1. This ruling relates to the application dated **25<sup>th</sup> March, 2022** filed by the Applicant, Stephen Ngunyi Wamuhu; seeking for **ORDERS THAT:**
  - 1) **P&A 2187 of 2014 consolidated with Petitioners/ Administrators Succession Cause No. P&A 1681 of 2014 for the purposes of trial, be struck out, under the provisions of Order 24 of Rule 3 (1) (2) of the Civil Procedure Rules for having abated, the Petitioner thereof one Charles Mungai Kihugah therein, having died towards the end of December, 2019, and no application from him has been filed as required by the said law.**
  - 2) **The Objector in P&A 2187 of 2014, “In the Matter of the Estate of the late Jane Wangari Deceased,**

be struck out from record, under the provisions of Order 24 Rules 3 (1) and (2) of the Civil procedure Rules, the Respondent one Charles Muigai Kihugah, having died in late December, 2019, and no application for substitution has ever been made as required by the law within one (1) year thus confirming that the suit has abated and it no longer exists.

3) M/S Moses Wainaina Mwangi and Fredrick Maina Mwangi the sons of the deceased Respondent one Mr. Charles Muigai Kihugah deceased be arrested, charged and prosecuted with intermeddling with the Estate of the late Jane Wangari (Deceased) under section 45 of the Law of Succession Act, Cap 160 of the Laws of Kenya ever since the death of their father in late December, 2019, and to account for all the rent they have collected from the assets of the Estate of the late Jane Wangari Deceased ever since within the next (10) days failing which all their personal assets should be attached and to recover the same in full to the last cent of their personal fortune.

4) Consequent upon the abatement of the Respondent's claim in both P&A 2187 of 2014 ad P&A 1681 of 2014, all three (3) assets of the estate of the late Jane Wangari Deceased known as:

|  | Land | Parcel | Plot | No. |
|--|------|--------|------|-----|
|--|------|--------|------|-----|

**D1 - 239 - Kayole, Nairobi, Land Parcel Plot No. 35723 Dandora, Phase II Housing Development Scheme and, Plot No. Block C405 LR No. 84011 Lang'ata Development Co. Ltd, be all transferred to the Petitioner/Administrator Deceased, as the sole owner to hold the same on his behalf and on behalf of the only surviving beneficiaries of the Estate of the late Jane Wangari Deceased namely: Stephen Ngunyi, Wamuhu, Petitioner/Administrator; and Zipporah Kariuki, Brother and sister respectively, as the owners thereof.**

**5) Thereafter, the court do issue the Petitioner/Administrator in P&A 2187 of 2014. In the matter of the Estate of the late Jane Wangari Deceased, with the certificate of confirmation of grant of letters of administration intestate of the estate of the late Jane Wangari Deceased.**

2. The application is based on the grounds thereof and supported by affidavit sworn by Stephen Ngunyi Wamuhu on **25<sup>th</sup> March, 2022.**
3. He avers *inter alia* that he is the Administrator and Petitioner of the estate of the late Jane Wangari (P&A No. 2187 of 2014), a matter consolidated with P&A No. 1681 of 2014 for hearing and determination. He outlines the procedural history, noting that the deceased Jane Wangari died in January 2014 without children and that the consolidated cause partly proceeded before different judges until

February 2020, when the matter was adjourned for further directions but stalled due to the COVID-19 court closures.

4. He avers that following the death of Charles Muigai Kihugah (the Petitioner in P&A No. 1681 of 2014) in December 2019, no application for substitution was filed, rendering that cause abated and that the deceased's two sons, Moses Wainaina Mwangi and Frederick Maina Mwangi, unlawfully took over management of the estate, collected rental income, refused to cooperate with the court; and declined to account for the proceeds.
5. He therefore prays that P&A No. 1681 of 2014 be declared abated, that the confirmation of grant in P&A No. 2187 of 2014 be issued to him to enable finalization and registration of the estate in favour of the lawful beneficiaries (himself and his siblings) and that the said sons be arrested, charged with intermeddling under section 45 of the Law of Succession Act, compelled to account for all rental income collected from specified estate properties from 2014 to 2019 and ordered to deposit the monies in court pending final determination.
6. The application is not opposed and no written submissions have been filed.

### **ANALYSIS AND DETERMINATION**

7. I have carefully read the application herein and the history of this matter.
8. It is evident that Geoffrey Mwangi Kihugah testified before Muchelule J (as he was) and thereafter the matter stalled.

9. Unfortunately, he has since passed on and from the averments of the Applicant nobody has come out to substitute him as a claimant in the estate of the late Jane Wangari.
10. In the absence of such replacement, it therefore means that the claim by the Applicant herein who is the late Wangari's brother ought to stand. In other words, the grant issued to him on 22<sup>nd</sup> September 2015 and confirmed on 9<sup>th</sup> March 2016 stands for all intend and purposes.
11. On the question of intermeddlers, Moses Wainaina Mwangi and Fredrick Maina Mwangi are strangers in these proceedings and the Administrator should proceed separately to deal with them. This court cannot condemn them for the reason that they have not stack any claim in this estate.
12. **In the premises the application is allowed as hereunder:**
  - (a) **It is declared that the grant of letters of administration issued to the late Charles Muigai Kihugah vide Succession Cause No 1681 of 2014 in the matter of the estate of the late Jane Wangari, on 16<sup>th</sup> September 2014 and confirmed on 15<sup>th</sup> February 2016 are hereby set aside having abated.**
  - (b) **The grant of letters of administration issued to Stephen Ngunyi Wamuhu vide Succession Cause No. 2187 of 2014 on 22<sup>nd</sup> September 2015 and**

confirmed on 9<sup>th</sup> March 2016 are hereby held to be valid for all intent and purposes.

- (c) The Applicant/Administrator be at liberty to deal with Moses Wainaina Mwangi and Fredrick Maina Mwangi separately.
- (d) Costs in the cause.

Dated signed and delivered via video link at Nairobi

this

29<sup>th</sup> day of January 2026.

**H K CHEMITEI**  
**JUDGE**