



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Peter Machinji Isiaho Mutongoi (Deceased) (Succession Cause 770 of 2015) [2026] KEHC 418 (KLR) (27 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 418 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
SUCCESSION CAUSE 770 OF 2015**

**S MBUNGI, J**

**JANUARY 27, 2026**

**IN THE MATTER OF ESTATE OF PETER MACHINJI ISIAHO MUTONGOI-(DECEASED)**

**IN THE MATTER OF**

**MARY KERUBO MACHINJI ..... PETITIONER**

**AND**

**MARY KALSINA MACHINJI ..... OBJECTOR**

**RULING**

1. The objector herein filed a summons for revocation and or annulment of the grant issued on 27<sup>th</sup> June 2016 and a fresh grant be issued to her, Mary Kalsina Machinji.
2. The objector in her grounds and supporting affidavit avers that the proceedings leading to the issuance of the grant were obtained through defective means and without the chief's letter.
3. According to the objector, the deceased had two families: her mother and that of the petitioner. She avers that the petitioner, in applying for the succession process, failed to obtain the chief's letter, which led to the 1<sup>st</sup> house being unrepresented in the process.
4. She further claimed that the petitioner had failed to include all the deceased properties during the distribution process, such as land parcel No. Isukha/Shirere/6809, which was pending transfer of title, and that the petitioner caused the transfer of the title to Maurice Machinji instead of the deceased name and further that the petitioner transferred Land Parcel No. Isukha/Kambiri/994 to Stanley Murande Kisia unprocedurally without waiting for the confirmation of the grant.
5. She asserts that the petitioner has segregated the 1<sup>st</sup> house from the succession process, hence she has abused her powers of administration.



6. The matter refers to the estate of Peter Isiaho Machinji Mutongoi, who died intestate on 9<sup>th</sup> March 2003. The deceased had two families, being by the late Peninanh Imbosa. (1<sup>st</sup> house) and Mary Kerubo Machinji (2<sup>nd</sup> house)
7. His widow, Mary Kerubo Machinji, applied for a letter of administration intestate, listing the deceased's 18 children and herself as beneficiaries and listing the deceased's assets as Kakamega/Shirere/761, Isukha/ Kambiri/1363 and Isukha/ Kambiri/994 with no liabilities.
8. The grant of letters of administration intestate was issued by the Hon. Justice E.C. Mwita on 27<sup>th</sup> June 2016. She proceeded to apply for confirmation of the grant on 8<sup>th</sup> December 2017, listing the deceased beneficiaries as;
  1. Everlyne Kiyumba Machinji
  2. Emmanuel Shiatsala Machinji
  3. Carolynne Imbala Machinji
  4. Silas Okanga Machinji
  5. Isabel Malesi
  6. Lorna Liyayao Machinji
  7. Gabriel Isenjia Machinji
  8. Laura Khamete Machinji
  9. John Inganji Machinji
  10. Mary Shimuli Machinji
  11. Mactilda Machinji
  12. Simon Indoko Machinji
  13. Judith Litembuli Machinji
  14. Godfrey Mutakha Machinji
  15. Liliy Chumba Machinji
  16. Mourice Shikamayia Machinji
  17. Jacklyne Chumba Machinji
9. She proceeded to file a consent of distribution form, although it was not signed by all the beneficiaries.
10. On 6<sup>th</sup> April 2018, her stepson Simon Indoko Machinji filed a summons for revocation of the grant made on 27<sup>th</sup> June 2016, claiming that the petitioner had failed to disclose all the deceased's estate and even allowed for strangers to intermeddle in the estate before the confirmation process was completed. He further filed an affidavit of process claiming that the petitioner had sidelined the first house children and excluded them from the succession process.
11. The petitioner filed a replying affidavit where she denied the allegation of selling the deceased estate, stating that the deceased had jointly purchased the land parcel Isukha/ Kambiri/993 to the father of Stanley Malande Kisia, who had been in occupation of the said land for 40 years, hence there was no intermeddling on her part.



12. The application before the court currently is for revocation of letters of administration dated 11<sup>th</sup> December 2023, who prays that she, Mary Kalsina Machinji, be issued with the grant for administration, claiming that the 1<sup>st</sup> house has not been included in the distribution process and that the administrator has not included all the deceased estate and has gone further to transfer Land Parcel Isukha/ Kambiri/994 to Stanley Murande Kisia without the confirmation of the grant.

### **Analysis and determination**

13. I have analysed the pleadings and submissions, the main issue for determination is whether the court should revoke the grant of letters for administration, and the same should be issued to the applicant.
14. From the analysis above, I do note that the deceased, before his demise, had two wives and several children. Upon his demise, his second wife, Mary Kerubo, applied for a grant of letters of administration, which was issued to her. The objector herein has now filed for revocation of the grant, claiming that the second family are not being included in the succession process and further that the administrator has started disposing of the deceased estate before the succession process was completed, which amounted to intermeddling.
15. She now prays that the grant issued to the administrator be revoked and she be issued with the grant to administer the deceased estate.
16. According to the objector, some of the property was not listed in the mode of distribution. In the interest of justice, it is only fair that the beneficiaries herein and all the deceased properties are included in the mode of distribution.
17. The non-disclosure of all the beneficiaries from the list and the omission of some parcels from the asset list are clear violations of section 51(2)(g) of the Act and Rule 7(1)(e) of the Probate and Administration Rules, which require the petitioner to disclose all surviving heirs and assets.
18. In Re Estate of Ngengi Muigai (Deceased) [2020] eKLR, the court held that a grant obtained without disclosure of all beneficiaries “amounts to a fraudulent misrepresentation” warranting revocation. The same reasoning applies here.
19. For fairness and equity, both of the deceased's houses ought to be represented in the administration of the estate, and as such, I will allow the objector to be an administrator together with the petitioner.
20. I am satisfied that the allegation of concealment of beneficiaries and property raises important concerns that cannot be ignored, and as such, I will allow the objection and set aside the grant of letters of administration issued to the petitioner and make the following orders;
  - a. The grant of letters of administration issued to the petitioner on 27<sup>th</sup> June 2016 is hereby revoked;
  - b. A fresh grant of letters of administration shall be issued to both the petitioner, Mary Kerubo and Mary Kalsina.
  - c. A fresh summons for confirmation shall be filed within 60 days listing all beneficiaries and all the deceased estate.
  - d. Each party shall bear their own costs, this being a family matter.
  - e. Right of Appeal 30 days.
  - f. Mention 6.7.2026.



**DATED, SIGNED AND DELIVERED IN OPEN COURT AT KAKAMEGA 27<sup>th</sup> DAY OF JANUARY, 2025.**

**S.N. MBUNGI**

**JUDGE**

In the presence of:-

CA: Angong'a/Nekesa

Ms Munihu for the Objector Applicant present online.

