



**In re Estate of Richard Kigondu Kigeria (Deceased) (Succession Cause 192 of 2013 & 114 of 2011 (Consolidated)) [2026] KEHC 329 (KLR) (21 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 329 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT EMBU  
SUCCESSION CAUSE 192 OF 2013 & 114 OF 2011 (CONSOLIDATED)  
RM MWONGO, J  
JANUARY 21, 2026  
IN THE MATTER OF THE ESTATE OF RICHARD KIGONDU KIGERIA (DECEASED)**

**BETWEEN**

**AMBROSE NJIRU NYAGA ..... APPLICANT**

**AND**

**ABRHAM NJUE RICHARD ..... ADMINISTRATOR**

**AND**

**THE LAND REGISTRAR, KIRITIRI LANDS REGISTRY ..... RESPONDENT**

**RULING**

1. Through a summons dated 03<sup>rd</sup> April 2025 the administrator/applicant seeks orders that:
  - a. Spent;
  - b. The court do order cancellation of registration of parcels of land Nos. Mbeere/Kirima/335, Mbeere/Kirima/1402, Mbeere/Kirima/1403 Mbeere/Kirima/1404, Mbeere/Kirima/1569, Mbeere/Kirima/1570, Mbeere/Kirima/1571, Mbeere/Kirima/1572, Mbeere/Kirima/1573, Mbeere/Kirima/1574, Mbeere/Kirima/1575 and Mbeere/Kirima/1576 in favour of the 1<sup>st</sup> Respondent and any other registrations and/or dealings carried out subsequent to the order dated 18<sup>th</sup> September 2024;
  - c. The 2<sup>nd</sup> Respondent be directed to register the order dated 19<sup>th</sup> December 2024 staying execution of the order dated 18<sup>th</sup> September 2024 pending the hearing and determination of Nyeri CoA Civil Appeal No. E045 of 2025; and
  - d. That costs of the application be provided for.



2. The administrator/applicant stated that contrary to the order of the court issued on 18<sup>th</sup> September 2024, the 2<sup>nd</sup> respondent went ahead to register the 12 parcels of land to people other than ‘Ephantus Njuki Nyaga (deceased) for the Mbandi Clan’.
3. He stated that there is an appeal pending before the Court of Appeal and that it is necessary that the orders sought herein be granted. That through a ruling delivered on 19<sup>th</sup> December 2024, the court granted stay of execution of the judgment pending hearing and determination of the appeal. However, the applicant learned that the 2<sup>nd</sup> respondent had registered the contentious properties to other people while the application for stay was pending hearing.

### **Replying Affidavit**

4. The 1<sup>st</sup> respondent filed a replying affidavit stating that the judgment of the court delivered on 18<sup>th</sup> September 2024 did not bar registration of the property to any other member of the Mbandi Clan, hence that is why he pursued such registration to the members of the clan. That the judgment was executed when there was no stay order in place and so it cannot be the case that registration should be cancelled.

### **Parties’ Submissions**

5. The parties canvassed the applications by way of written submissions.
6. The Administrator/applicant submitted that the respondents misinterpreted the meaning of the court’s order of 18<sup>th</sup> September 2024 which meant that the suit properties should have been reverted to the name ‘Ephantus Njuki Nyaga (deceased) for the Mbandi Clan’. He relied on section 45 of the *Law of Succession Act* and the case of Republic v Cabinet Secretary, Ministry of Education & another Exparte Thadayo Obanda [2018] KEHC 8546 (KLR).
7. He argued that court orders are not made in vain and that they must be obeyed. That the orders of the court should not be interpreted in a skewed manner such that they only benefit certain parties. He argued that this is contemptuous and ought to be punished. That the orders of the court were clear but the respondent chose to give them a different meaning.
8. On his part, the respondent argued that prayer 2 of the application has the potential of fully determining the appeal pending before the Court of Appeal, hence it should not be granted. That the applicant was not vigilant after receiving the court orders and he cannot now seek recourse from the court after sleeping on his rights for a long time to his detriment. He insisted that he acted lawfully and procedurally in executing the decree and that it is too late in the day to challenge execution. He termed the application as an abuse of the court process.

### **Issue for determination**

9. From the foregoing, the issue for determination is whether the application has merit.

### **Analysis and Determination**

10. This Court, through its judgment delivered on 18<sup>th</sup> September 2024 determined as follows:

“25. Therefore, I do make the following orders:

- a. The certificate of confirmation of grant issued on 11<sup>th</sup> July 2011 is hereby set aside;



- b. The Land Registrar is hereby ordered to cancel registration of parcel numbers Mbeere/Kirima/335,1402, 1403, 1404, 1569, 1570, 1571, 1572, 1573, 1574, 1575 and 1576 to any parties other than ‘Ephantus Njuki Nyaga (deceased) for the Mbandi Clan’ pursuant to this court’s JR Application Number 31 of 2004 delivered on 30<sup>th</sup> May 2005;
- c. There shall be no order as to costs.

26. It is so ordered.”

- 11. The Court’s Order (b) meant that the Registrar should cancel registration of the properties to any other people except the registration entry made to, or in the name of ‘Ephantus Njuki Nyaga (deceased) for the Mbandi Clan’. The court made particular reference to the orders of the court in JR Application Number 31 of 2004 delivered on 30<sup>th</sup> May 2005 which was issued by Lenaola, J. (as he then was). The said orders are still in force. This specific reference to the JR order was, evidently, to avoid duplication of orders in a manner that will cause confusion or untidiness in the matter.
- 12. It would appear that the interpretation of this order by the respondents was lost in semantics. They thus took it upon themselves to distribute the suit properties amongst 12 different members of the 1<sup>st</sup> respondent’s Mbandi clan. This clearly appears to have been an unfortunate and severe misinterpretation of the judgment of Lenaola J (as he then was). The clarity of the judgment was that the suit properties ought to have remained registered only in the name of ‘Ephantus Njuki Nyaga (deceased) for the Mbandi Clan’ pursuant to this court’s JR Application Number 31 of 2004 delivered on 30<sup>th</sup> May 2005. No individual members of the Mbandi clan were in fact named in the said order, and no interpretation should have included any individual names of that clan without further clarification by the Court.
- 13. There was a window of time between 18<sup>th</sup> September 2024 and 19<sup>th</sup> December 2024 when there was no stay of execution order in place. It is during this time that the respondents misinterpreted and transferred the suit properties to the 12 individual members of the Mbandi clan.
- 14. With this window of free execution (when there was no stay order), the respondents should have reverted registration of the properties to the name ‘Ephantus Njuki Nyaga (deceased) for the Mbandi Clan’ pursuant to this Court’s order in JR Application Number 31 of 2004 delivered on 30<sup>th</sup> May 2005 and not to any other unnamed individual members of that clan. Any other registrations to individual members of the clan cannot be ordered within these succession proceedings. In fact, such registrations amount to an illegality in the face of a valid order of the court that has not been executed.
- 15. There is, indeed, an appeal pending before the Court of Appeal and it is yet to be heard. The 1<sup>st</sup> respondent has expressed apprehension that if the orders sought are granted, it will be as good as preempting the appeal. This is not a matter of much concern at this point since without a stay order, the respondent proceeded to willingly perpetrate an illegality.

## Disposition

- 16. In my considered view, it is necessary that the status quo at the time of the judgment of the court delivered on 18<sup>th</sup> September 2024, be reinstated. Accordingly, I make orders as follows:
  - a. All entries made in the titles for parcels of land Nos. Mbeere/Kirima/335, Mbeere/Kirima/1402, Mbeere/Kirima/1403 Mbeere/Kirima/1404, Mbeere/Kirima/1569, Mbeere/Kirima/1570, Mbeere/Kirima/1571, Mbeere/Kirima/1572, Mbeere/Kirima/1573, Mbeere/



Kirima/1574, Mbeere/Kirima/1575 and Mbeere/Kirima/1576 after 18<sup>th</sup> September 2024 be and are hereby cancelled and the 2<sup>nd</sup> respondent forthwith is ordered to implement the cancellation.

- b. The stay of execution order issued on 19<sup>th</sup> December 2024 shall forthwith be registered against each of the aforesaid twelve (12) titles by the 2<sup>nd</sup> respondent pending hearing and determination of the appeal pending before the Court of Appeal in Nyeri CoA Civil Appeal No. E045 of 2025; and
- c. There shall be no order as to costs.

17. It is so ordered.

**DELIVERED, DATED AND SIGNED AT EMBU HIGH COURT THIS 21<sup>ST</sup> DAY OF JANUARY, 2026.**

.....

**R. MWONGO**

**JUDGE**

Delivered in the presence of:

No Representation for Njiru for 1<sup>st</sup> Respondent

Ambrose Njiru Nyaga

No Representation for Rose Njeru

Murimi holding brief for Rose Njeru for Administrator

Francis Munyao - Court Assistant

