



**In re Estate of Muthee Kanyaka Karanja (Deceased) (Family Appeal
E009 of 2025) [2026] KEHC 948 (KLR) (Family) (4 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 948 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
FAMILY
FAMILY APPEAL E009 OF 2025
KW KIARIE, J
FEBRUARY 4, 2026
IN THE MATTER OF THE ESTATE OF MUTHEE KANYAKA KARANJA - DECEASED**

BETWEEN

MIRIUM WANJIKU MUTHEE APPELLANT

AND

MARY NGENDO MUTHEE RESPONDENT

RULING

1. Mirium Wanjiku Muthee, the applicant herein, moved the court by way of Summons (General) dated 25th October, 2025, under sections 47, 49A, 50 & 79G of the *Law of Succession Act* & under Rules 59 (1) & 63 (f) of the Probate and Administration Rules. She is seeking the following orders:
 - a. This application be certified urgent and service thereof be dispensed with in the first instance. [Spent]
 - b. That pending the hearing and determination of this application, this honourable court be pleased to issue an order of stay of execution of the ruling and orders issued in Nyahururu CM Succession Cause No. E235 of 2023 on 9th September 2025.
 - c. That pending the hearing and determination of this appeal, there be an order of stay of execution of the said Ruling and Orders issued in Nyahururu CM Succession Cause No. E235 of 2023 on 9th September 2025.
 - d. That pending the hearing and determination of this appeal, the respondent, her servants, agents and/or representatives be restrained from subdividing, alienating, transferring or in any manner interfering with the parcel of land known as LR. Nyandarua/Ol Joro Orok Salient/29234.



- e. The costs of this application be in the cause.
2. The application was premised on the following grounds:
 - a. The appellant/applicant being aggrieved by the ruling delivered on 9/9/2025 in Nyahururu CM Succession Cause No. E235 of 2023 has lodged the appeal herein.
 - b. The respondent has, since the delivery of the impugned ruling, brought strangers onto the suit land and commenced activities geared towards subdivision and transfer of the deceased's estate property.
 - c. The appellant/applicant has an arguable appeal based on weighty issues, including the fact that the trial court erred by upholding a grant that was issued and confirmed without the participation of the appellant, who is a lawful wife and dependent of the deceased, contrary to the provisions of section 29(a) of the *Law of Succession Act*.
 - d. That further, the proceedings leading up to the issuance and confirmation of the grant were defective in substance having been conducted without the consent or involvement of the appellant/applicant because the respondent obtained the grant through concealment of material facts and false statements by deliberately omitting to disclose the existence of the appellant as a co-wife and dependent of the deceased, a tact which the trial court acknowledged.
 - e. The confirmed grant unlawfully included one Joyce Wairimu Kiprono, a stranger to the estate of the deceased, as a beneficiary of the estate property without any legal or evidential basis.
 - f. It is regrettable that the property indicated as LR. Nyandarua/OI Joro Orok Saliend/29324 in the Certificate of Confirmation issued on 7/9/2023 does not belong to the estate of the deceased, and no proper amendment was sought to correct the error.
 - g. The trial court, in failing to revoke or annul the defective grant despite overwhelming evidence demonstrating misrepresentation, non-disclosure, and procedural irregularities in its procurement and confirmation, the appellant/applicant stands to suffer injustice as she and her children were not adequately provided for.
 - h. That, unless this honourable court intervenes, the respondent's actions will render the appeal nugatory and deprive the Appellant of her lawful share of the deceased's estate should the appeal succeed.
 - i. The appellant is a lawful wife and dependent of the deceased, who was excluded from the succession proceedings contrary to the mandatory provisions of Section 29a of the *Law of Succession Act*, and her appeal raises weighty and arguable issues which have high chances of success.
 - j. The applicant is willing to give security for the due performance of the said ruling as may be ordered, which guarantee shall be proven upon request by this honourable court.
 - k. That, unless the orders sought herein are granted, the applicant's appeal shall be rendered nugatory.
 - l. That it is in the interest of justice that this court grants the orders sought herein.
 3. The respondent opposed the application and filed the following grounds:
 - a. The said summons has been brought in bad faith, and it is untenable and is an abuse of the court process, and does not meet the well-settled principles of granting the orders sought.



- b. The applicant has deliberately withheld material facts in the current application, thus making it difficult for the court to have an objective mind in the determination of the current application.
- c. The applicant and the respondent were married to the deceased as 1st and 2nd wife respectively, and we were both settled by the deceased on his parcel of land in O1 Joro Orok in Nyandarua County.
- d. That when the respondent got married to the deceased, she found the applicant settled on one side of the deceased's parcel of land, and she was settled on the other end of the said parcel of land, where her matrimonial home was established.
- e. The deceased decided to share out his parcel of land in such a manner that the 1st house was to get the land where they had constructed their matrimonial home. The respondent was to receive the portion containing her matrimonial house, and the middle part of the land was sold by the deceased.
- f. The deceased sold the middle portion of his land to a third party, to ensure that the two houses were separated by someone else outside his family.
- g. The deceased had the intention of perfecting the gifts to the 2 houses. They proceeded to perfect the gift to the applicant by transferring to her the L.R. Nyandarua/ O1 Joro Orok Salient/ 20414, measuring 1.430 hectares.
- h. The deceased had the intention of transferring L.R Nyandarua/ O1 Joro Orok Salient/ 29234 measuring 0.892 to me, but unfortunately, he died before the transfer was perfected.
- i. That at the time of his death, the deceased had L.R Nyandarua/ O1 Joro Orok Salient/ 29234 as the only parcel of land registered in his name, and since he had the intention of transferring it to the respondent.
- j. That since the respondent was aware that the applicant had been given L.R Nyandarua/ O1 Joro Orok Salient/ 20414, she mistakenly decided not to involve her as she did not have any interest in L.R Nyandarua/ O1 Joro Orok Salient/ 29234.
- k. That at the time of petitioning for the estate, the respondent was not aware that she was obligated to involve the applicant and the members of her family, and that explains the reason why she did not involve her.
- l. The technical lapse of not involving the applicant and her family could not have affected the distribution of the estate as provided for in sections 29 and 42 of the [Law of Succession Act](#) that embrace elegant principles of equity, equality and fairness in the distribution of the estate of the deceased to beneficiaries to avoid double-portion syndrome and rein in the greed of beneficiaries.
- m. That in view of the foregoing, and considering that substantial justice should take precedence over procedural technicalities, even assuming that the applicant was involved in the succession proceedings, she would not have benefited from the estate, as she had her share transferred to her during the lifetime of the deceased.
- n. The applicant will not suffer any loss, and is not likely to suffer any prejudice, as she has benefited in a substantial way from the estate.
- o. That the respondent's children consented to a share of the estate being given to Joyce Wairimu Kiprono, and as such, she is not a stranger as alleged.



4. I have considered rival issues raised by both parties, and in my opinion, ends of justice will be served by granting the stay orders in terms of prayers b, c and d of the summons.
5. The impugned ruling was in Nyahururu CM Succession Cause No. E235 of 2023. The Court is under the supervisory jurisdiction of the High Court sitting at Nyahururu. I make an order that this appeal be transferred to the High Court sitting at Nyahururu.
6. Costs be in the cause.

DELIVERED AND SIGNED AT NYANDARUA, THIS 4TH DAY OF FEBRUARY 2026

KIARIE WAWERU KIARIE

JUDGE

