



**In re Estate of Nyaga Chigiti (Deceased) (Succession Cause
54 of 2014) [2026] KEHC 1653 (KLR) (18 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1653 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT EMBU
SUCCESSION CAUSE 54 OF 2014
RM MWONGO, J
FEBRUARY 18, 2026
IN THE MATTER OF THE ESTATE OF NYAGA CHIGITI (DECEASED)**

BETWEEN

BENSON NJERU NYAGA ADMINISTRATOR

AND

MOSES NJERU NDWIGA 1ST APPLICANT

GRACE WANJA NYAGA 2ND APPLICANT

**SUING AS LEGAL REPRESENTATIVES OF THE ESTATE OF NDWIGA
KAGUTA - DECEASED**

RULING

1. The applicants filed summons for revocation of grant dated 18th September 2025 through which they seek the following orders:
 - a. Spent;
 - b. That the Honourable Court be pleased to revoke and/or annul the grant issued on 17th July, 2018 for having been obtained fraudulently and by concealment of material facts pertaining to the estate comprised of Land Parcel No. Nthawa/Riandu/1243;
 - c. Spent;
 - d. Spent;
 - e. That the costs of the application be provided for.
2. The application was premised on grounds that the proceedings leading to the issuance of the grant were fraudulent by the making of false statements. That the administrator obtained the grant by



concealment of material facts to the effect that the entire parcel No. Nthawa/Riandu/1243, though registered under deceased name and one Ngari Imeke, the said registration was fraudulent. The applicants stated that the administrator herein failed to disclose to the court that Land Parcel No. Nthawa/Riandu/1243 belonged to the applicant's deceased father Ndwiga Kagutu. That the applicant and all beneficiaries of the estate of Ndwiga Kagutu live on the suit land and have extensively developed it.

3. It was the applicants' case that the ownership of Land Parcel No. Nthawa/Riandu/1243 was determined through Siakago SPMCCC 19 of 1990, and was found to belong to the applicants' father, one Ndwiga Kaguta. The suit had been filed because the deceased herein and Ngari Ikeme took Ndwiga Kaguta's portion of the land. The deceased herein defrauded the applicants' father's portion of the said land and the administrator went on to administer the estate bequeathing himself and Symon Ngari Nyaga all the land. They stated that the administrator ought to have given half of the land to the applicants since half of it belonged to their father.

Replying Affidavit

4. In his replying affidavit, the administrator stated that the application was misconceived and bad in law. That the applicants are not beneficiaries or parties to the suit hence they lack locus standi to bring the application. That the application is based on unsubstantiated claims which cannot be determined in the proceedings herein. He stated that the land was given to the deceased herein through a judgment by the High Court in Misc. Case. No. 771 of 1990 which found that the applicants' father never owned the land or any part of it. He urged the court to find that the application is fatally defective and is for dismissal.

Parties' Submissions

5. The application was canvassed by way of written submissions.
6. The applicant submitted that Land Parcel No. Nthawa/Riandu/1243 was registered in the name of the deceased herein and Nyaga Imeke in equal shares, but fraudulently so. That the land actually belonged to the deceased and Ndwiga Kagutu (also deceased), the applicants' father. Regardless of this fact, the administrator went on to distribute the land between him and Symon Ngari Nyaga. They argued that the administrator concealed the extent of the estate of the deceased from the court, a matter that should have been disclosed. That the issue of ownership of the land was determined in favour of the applicants' father and they referred to the last page of the judgment by the court in Siakago SPMCCC 19 of 1990. They urged the court to revoke the grant on that basis.
7. The respondent submitted that the applicants are calling upon the court to determine ownership of the land, a matter, they argue, that the court lacks jurisdiction to determine. Moreover, that the applicants do not have locus standi to bring the application since they are not beneficiaries of the estate of the deceased. He argued that the deceased herein was registered as a proprietor of the land following a decision of the High Court in Misc. Cas No. 771 of 1990.

Issues for Determination

8. The issue for determination is whether the grant issued in the estate of the deceased should be revoked.

Analysis and Determination

9. The administrator challenged the jurisdiction of the court pointing out that what the court was faced with was a question of ownership of land. He also challenged the applicant's locus standi.



From the pleadings, it is evident that the core issue before the court is revocation of grant and not ownership of land. In fact, the applicants provided proof that the issue of ownership of the suit land was canvassed before a competent court, and the issue was determined. They produced a copy of the relevant judgment. On the other hand, the administrator cited another court case where the land was given to the deceased herein. However, no copy of the alleged decision was annexed.

10. In my view, the applicants have brought the application to a court of competent jurisdiction to determine the question before it.
11. When determining whether or not a grant should be revoked, section 76 of the *Law of Succession Act* must be applied. It provides the revocation grounds as follows:

“A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion-

- (a) that the proceedings to obtain the grant were defective in substance;
- (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
- (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;
- (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either-
 - (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow;
or
 - (ii) to proceed diligently with the administration of the estate; or
 - (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
- (e) that the grant has become useless and inoperative through subsequent circumstances.”[Emphasis added]

12. The applicants seek revocation of the grant on the grounds that their father, the late Ndwiga Kaguta was co-owner of Land Parcel No. Nthawa/Riandu/1243 with the deceased herein in equal shares. It is their argument that the half portion of the land belonging to their late father was fraudulently transferred to one Nyaga Imeke. Come the time for administering the estate herein, the administrator divided the whole portion of land and bequeathed it to himself and another beneficiary.
13. In essence, the argument is that the administrator withheld from the court the information that the deceased was not the sole owner of the Land Parcel No. Nthawa/Riandu/1243. In other words, the court was not informed that the estate of the deceased did not comprise of the 100% share in Land Parcel No. Nthawa/Riandu/1243.



14. Section 83 of the *Law of Succession Act* provides for the duties of a personal representative and they include gathering in the free estate of the deceased, administering it and accounting to the court for the estate. It was the duty of the administrator herein to identify the extent of the estate and administer it. In this case, the applicants have proved that a different court determined ownership of the suit land much earlier in time when the deceased was still alive in 1990. The deceased died on 01st August 1999 and the extent of his estate was known. When, on 22nd August 2013, the administrator petitioned for a grant in the estate of the deceased, he falsely indicated that the estate comprised of land parcel no. Nthawa/Riandu/162.
15. A grant was issued to the administrator on 05th May 2014 and he filed summons for confirmation of the same. The certificate of confirmation of grant was issued on 27th January 2016, and it indicates distribution of Nthawa/Riandu/162 between Benson Njeru Nyaga and Symon Ngari Nyaga in equal shares. Through summons for rectification dated 13th April 2018, the administrator sought to include half share of Land Parcel No. Nthawa/Riandu/1243 in the estate and he produced a search certificate dated 26th March 2018 showing that the other half was owned by Ngari Imeke.
16. The court amended the certificate of confirmation of grant and included half portion of the land Parcel No. Nthawa/Riandu/1243 and distributed it in equal shares between Benson Njeru Nyaga and Symon Ngari Nyaga. It means that the other half of that land was left to be in the names of and held by Ngari Imeke as shown in the official search certificate. It is this half portion of the land that the applicants are interested in.
17. From the foregoing history, it is clear that the administrator, through summons for rectification, introduced the half portion of land Parcel No. Nthawa/Riandu/1243 which measured 2.8Ha, according to the search certificate. That half portion was divided between Benson Njeru Nyaga and Symon Ngari Nyaga each getting 0.7Ha.
18. The applicant's case for revocation of grant, therefore does not hold water because all necessary disclosures were made to the court and the correctly identified estate was distributed. There appears to be an issue regarding the remaining 1.4HA of land Parcel No. Nthawa/Riandu/1243 which was left in the name of Ngari Imeke. In my view, the applicants recourse is against this person and not against the estate of the deceased herein. While there remains a valid judgment of the court on the issue, it remains clear to the succession court that only half of land Parcel No. Nthawa/Riandu/1243, and not the whole portion was subjected to the proceedings.
19. That being said, the result is that the place of the applicants in these proceedings is not established. The 9th Edition Black's Law Dictionary defines "Locus standi" as "The right to bring an action or to be heard in a given forum;". It is clear that the applicants do not have a claim or interest in the deceased's estate, whatsoever. As such, they had no right to bring the application. Therefore, their application fails on grounds that: firstly, they do not have locus standi; and, secondly, that there are no grounds for revocation disclosed.

Disposition

20. In light of the foregoing discussion, the summons dated 18th September 2025 is hereby dismissed in its entirety. The order of inhibition issued on 22nd October, 2025 is hereby vacated.
21. No order as to costs is made.
22. Orders accordingly.



DELIVERED, DATED AND SIGNED AT EMBU HIGH COURT THIS 18TH DAY OF FEBRUARY, 2026.

R. MWONGO

JUDGE

Delivered in the presence of:

Kimanzi for Respondents

Ndirongo for Applicants

Francis Munyao - Court Assistant

